Division of Pollution Prevention and Release Prevention

Toxic Catastrophe Prevention Act Program

Proposed Readoption with Amendments: N.J.A.C. 7:31

Proposed Repeal: N.J.A.C. 7:31-1.11

Proposed New Rules: N.J.A.C. 7:31-2.2, 3.5

Proposed Amended Rules: N.J.A.C. 7:31-1.1, 1.5, 1.11A, 3.1, 3.3, 4.1, 4.2, 4.3, 4.5, 4.6, 4.8, 4.9, 5.1, 6.2, 6.3, 7.1, 7.2, 7.5, 8.1, 11.4

Authorized by: Bradley M. Campbell, Commissioner

Department of Environmental Protection

Authority: N.J.S.A. 13:1K-19 et seq., 13:1D-9, 13:1B-3, and 26:2C-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

DEP Docket Number 0203-01/325

Proposal Number: PRN 2003-____

A public hearing concerning this proposal will be held on March 17, 2003 at 9:30 AM at:

New Jersey Department of Environmental Protection

401 East State Street

Public Hearing Room, 1st Floor

Trenton, New Jersey 08625

Submit written comments by April 21, 2003 to:

Stacey P. Roth, Esq.

Attention: DEP Docket #0203-01/325

Office of Legal Affairs

New Jersey Department of Environmental Protection

401 East State Street

P.O. Box 402

Trenton, NJ 08625-0402

The Department strongly recommends that commenters submit comments on diskettes as well as on paper. The Department will be able to upload the comments onto its office automation equipment, thereby saving the Department considerable time in not having to retype the comments. The Department will use the paper version of the comments to ensure that uploading is accomplished successfully. Submission of the diskette is not a requirement. The Department will accept all comments submitted in writing prior to the end of the comment period.

The Department prefers Microsoft Word 6.0 or above, however other word processing software that can be read or used by Microsoft Word 6.0 is acceptable. Macintosh format should not be used.

Text enhancements such as underlines, bold, etc., are often not converted from one software to another. Therefore, when suggesting text revisions involving additions/deletions, the revised text should be presented without enhancements, as they appear in the rule.

Comments on the rule Summary and impact statements should be included with the comments on the pertinent section of the rule text wherever possible in order to eliminate duplicate comments and facilitate the Department's task in organizing and responding to comments. Since comments will be sorted electronically, the following format should be used for each comment: Citation COMMENT: Comment text.

The Department's rule proposal provides for a 60 day comment period, and therefore, pursuant to N.J.A.C. 1:30-3.3(a) 5, is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

The agency proposal follows:

SUMMARY

The Department of Environmental Protection (Department) is proposing to readopt, with changes, its Toxic Catastrophe Prevention Act (TCPA) rules at N.J.A.C. 7:31. These rules are due to expire on June 18, 2003, in accordance with N.J.S.A. 52:14B-5.1. The Department has reviewed these rules and determined that the re-adoption of the TCPA rules at N.J.A.C. 7:31, is

necessary and appropriate for the continued implementation of the State mandated accidental release prevention program.

The Toxic Catastrophe Prevention Act (the "Act"), N.J.S.A. 13:1K-19 et seq., was enacted in 1985 and became effective in January 1986. The goal of the Act is to protect the public from catastrophic accidental releases of extraordinarily hazardous substances (EHSs) into the environment. The Act requires owners or operators of facilities having EHSs at certain threshold quantities to anticipate the circumstances that could result in accidental EHS releases and to take precautionary or preemptive actions to prevent such releases. The Act was enacted to protect public safety after 2500 people were killed in Bhopal, India in December 1984 as a result of an accidental release of methyl isocyanate. Methyl isocyanate was one of 11 compounds on the original EHS list identified in the Act. The Act mandated the Department to propose additional substances within 18 months. In 1988, when the Department adopted the original rules at N.J.A.C. 7:31, it added 93 toxic chemicals to the EHS list. The EHS list was further expanded in 1998 when the Department incorporated into its rules by reference most of the flammable substances regulated by the United States Environmental Protection Agency (USEPA) under the Federal Accidental Release Prevention (ARP) program mandated by Section 112(r) of the Clean Air Act Amendments of 1990.

In its 1998 readoption of the TCPA rules, the Department also incorporated by reference into its rules with some changes the provisions of the federal ARP rules at 40 CFR 68 (30 N.J.R. 2728). Adopting the federal rules enabled the Department to seek and obtain federal authorization to implement the TCPA program in New Jersey in lieu of the federal ARP program.

Public notice of USEPA's delegation of the federal ARP program to the Department was published in the Federal Register on July 3, 2001 (66 FR 35083) and became effective on September 4, 2001.

The TCPA rules at N.J.A.C. 7:31-1.4(a) state that future amendments to the Federal ARP rules are automatically incorporated into the State TCPA rules unless the Federal rules conflict with, and are less stringent than, the State rules. Since the 1998 readoption of the TCPA rules, the Federal rules were amended at 64 FR 28700, May 26,1999**,** to include revisions to the worst case scenario for flammable gases at 40 CFR 68.25. Also, at 65 FR 13250, March 13, 2000**,** the Federal rules were amended at 40 CFR 68.3 to add a definition of retail facility and at 40 CFR 68.126 to exclude flammable gases used as a fuel or held for sale as a fuel at a retail facility. Also, 40 CFR 68.130, the list of regulated substances**,** was amended to reflect the exclusions set forth at 40 CFR 68.126.

The TCPA rules specify the key elements of a risk management program needed to minimize the threat of an accidental EHS release at a regulated facility. By requiring owners and operators to consider the conditions that may contribute to accidental EHS releases and manage the potential risk to the environment and the public by taking precautionary actions, these rules have reduced the risk of catastrophic accidents from such releases. Many owners or operators of TCPA regulated facilities advised the Department that they have opted to extend their risk management program to their facilities in other states.

The TCPA rules have also decreased the risk of catastrophic accidents by encouraging reduction in EHS inventories or implementation of process changes that utilize fewer extraordinarily hazardous substances at regulated quantities. Reductions in EHS use has been confirmed by the number of TCPA facilities that have been able to de-register from the TCPA program because they no longer have EHSs at or above established threshold quantities. Significant reductions in the use of common EHSs such as chlorine, ammonia, hydrogen chloride, and hydrochloric acid has resulted in the number of TCPA registrants falling from over 600 in 1988 to approximately 100 in 2002. Water treatment plants account for the most dramatic decline in the number of regulated TCPA facilities due to the increased use of sodium hypochlorite as a substitute for chlorine for water treatment.

Review of the history of the TCPA program confirms the need to continue the current regulations. In addition, the USEPA recognized the success of New Jersey's TCPA program by using it as a model for the federal ARP program, which is now in effect in every state.

The chapter (N.J.A.C. 7:31) contains 11 subchapters governing the TCPA program's risk management program requirements, confidentiality and trade secrets, and administrative penalties for non-compliance. Subchapters 1 through 8 contain the incorporation by reference of the corresponding subparts of the federal regulations and any additional State regulations. Subchapters 9 through 11 contain State rules only since there are no federal counterparts to these rules. A brief summary of each subchapter follows:

Subchapter 1, General Provisions, incorporates by reference with some changes Subpart A (General) of 40 CFR 68. Subchapter 1 contains the purpose, construction, applicability, and severability provisions of the rules. This subchapter also contains definitions and the rules governing fees as well as other general information including how to obtain copies of the Federal ARP rules that are incorporated by reference into N.J.A.C. 7:31.

Subchapter 2, Hazard Assessment, incorporates by reference Subpart B (Hazard Assessment) of 40 CFR 68 and describes the requirements for conducting an analysis of the offsite consequences of an EHS release.

Subchapter 3, Minimum Requirements for a Program 2 TCPA Risk Management Program, incorporates by reference Subpart C (Program 2 Prevention Program) of 40 CFR 68 and contains the risk management program elements required for owners and operators of Program 2 covered processes. In addition to the federal requirements, this subchapter also contains supplemental State emergency response and triennial reporting requirements.

Subchapter 4, Minimum Requirements for a Program 3 TCPA Risk Management Program, incorporates by reference Subpart D (Program 3 Prevention Program) of 40 CFR 68 which contains the risk management program elements required for owners and operators of Program 3 covered processes. This subchapter contains all the federal requirements for a Program 3 risk management program, many of which were incorporated by reference with changes, as well as several State only requirements. These additional State requirements include: process hazard analysis with risk assessment for specific pieces of EHS equipment or

operating alternatives; standard operating procedures; EHS operator training; management of change; safety reviews ----design and pre-startup; emergency response; annual reporting; temporary discontinuance of EHS use, storage and handling; and new covered processes—construction and new EHS service.

Subchapter 5, Emergency Response, incorporates by reference Subpart E (Emergency Response) of 40 CFR 68 and sets forth the elements that must be included in the regulated stationary source's emergency response program. This subchapter also includes additional State emergency response program requirements regarding emergency response refresher training, annual emergency response exercises, and requirements for notification of emergencies.

Subchapter 6, Extraordinarily Hazardous Substances, incorporates by reference, with changes, the lists of regulated substances and their threshold quantities found in Subpart F of 40 CFR 68 (Regulated Substances for Accidental Release Prevention). This subchapter also describes how to determine whether a process contains a threshold quantity of a regulated substance and therefore is regulated under TCPA.

Subchapter 7, Risk Management Plan (RMP) and TCPA Program Submission, incorporates by reference Subpart G of 40 CFR 68 (Risk Management Plan) and contains the rules for submitting and updating an RMP, including preparation of the registration, off-site consequence analysis, five-year accident history, and certification. This subchapter also

contains additional State rules governing the submittal of supplemental TCPA program information, initial program evaluation, and risk management program transfers.

Subchapter 8, Other Requirements, incorporates by reference with changes 40 CFR 68 Subpart H (Other Requirements). This subchapter discusses recordkeeping, audits to determine compliance with the rules and with the owner's or operator's risk management program, and the mechanisms to ensure that appropriate action is taken to correct any violations or risk management program deficiencies found during an audit.

Subchapter 9, Work Plan/EHSARA, outlines the requirements and process for developing a workplan to perform an Environmental Hazardous Substance Accident Risk Assessment (EHSARA) and establishing a risk management program. The work plan process is used for owners and operators who are newly regulated and do not have an established risk management program. The EHSARA is the first step in developing a risk reduction plan and an approved risk management program. There is no federal counterpart in 40 CFR 68 to the rules in this subchapter.

Subchapter 10, Confidentiality and Trade Secrets, contains the steps to be taken when asserting, substantiating, reviewing or appealing claims of confidentiality to withhold privileged trade secret or security information. This subchapter also establishes the Department's procedures governing internal management of confidential information. There is no federal counterpart in 40 CFR 68 to the rules in this subchapter.

Subchapter 11, Civil Administrative Penalties and Request for Adjudicatory Hearings, specifies the procedures for assessment of civil administrative penalties for any violation of the TCPA rules and the procedures to be followed by the regulated community when requesting an administrative hearing. This subchapter also lists each category of offense and the penalty amount to be assessed for the first, second, or third offense and each subsequent offense. There is no federal counterpart in 40 CFR 68 to the rules in this subchapter.

To assist the Department in the readoption of these rules, a workgroup was convened consisting of representatives of industry, environmental groups, labor organizations, process safety engineers, and consultants. These proposed rules reflect the input of the members of the workgroup as well as changes prompted by the Department's experience in implementing and administering the program over the past 14 years.

The Department is proposing to readopt the TCPA rules with changes that will clarify and update the program's requirements. The Department is also proposing several additional amendments to the rules, which are consistent with the Department's goals of preventing offsite catastrophic accidents.

Significant Proposed Program Changes

Reactive Hazard Substances

The most significant program change is the Department's proposal to list certain reactive hazard substances as extraordinarily hazardous substances at N.J.A.C. 7:31-6.3, thus making

them subject to the TCPA rules at listed threshold quantities. Investigations of the accidents at two New Jersey companies, Napp Technologies in 1995 and Morton International in 1998, identified reactive substances as contributors to the root cause of these accidents and raised concerns about reactive hazards to a national level. In addition, as reported in its October, 2002 publication, the United States Chemical Safety and Hazard Investigation Board concluded that of 167 incidents that occurred between 1980 and 2001, over 50% involved reactive hazards. Reactive hazards are not currently regulated under the State's TCPA rules or the federal ARP program. The Department is proposing to add reactive hazard substances to the EHS list at Table I, Part D at N.J.A.C. 7:31-6.3.

Reactive substances are those that can cause a dangerous release of heat, energy, toxic vapors or gases when exposed to conditions that may occur in either normal or abnormal situations. Although an explosion or fire involving a reactive hazard substance is more directly responsible for the off-site harm, some amount of the reactive hazard substance will be released into the environment. Examples of reactive substances are 1) spontaneously combustible materials, 2) water reactive substances, and 3) flammable solids. A definition of reactive hazard substance is proposed at N.J.A.C. 7:31-1.5.

The Department considered the circumstances under which a reactive hazard substance could be classified as an EHS and cause a catastrophic accident and determined that there are two likely scenarios. The first scenario involves unintentional reactions caused by the inherent properties of the chemical itself. These chemicals may be unstable or self-reacting or may react if they are unintentionally exposed to air or water. In the second scenario, the accident is caused

by the intentional mixing of two or more chemicals in a process. In order to identify the chemicals that may be involved in each scenario, the Department reviewed several technical sources to determine which chemicals or chemical functional groups, as defined at N.J.A.C. 7:31-1.5, have the potential to cause these unintentional and intentional reactions that would impact the public beyond the property boundary of the stationary source.

In developing its list of reactive extraordinarily hazardous substances that are likely to cause unintentional reactions, the Department reviewed existing lists of reactive substances compiled by nationally recognized fire protection and emergency response agencies. The Department first reviewed the National Fire Protection Association (NFPA) lists of substances contained in the NFPA's Fire Protection Guide to Hazardous Materials (Thirteenth Edition). The NFPA Section 704, Identification of the Hazards of Materials for Emergency Response, categorizes substances by the type and the degree of hazard (from the lowest level-1 to the highest level-4) posed by the substance. Chapter 7 of that document discusses instability hazards and defines each of the four degrees of hazard associated with unstable materials. The Department focused on the NFPA 4 unstable substances and substances that NFPA classifies as water reactive substances. The NFPA 4 unstable substances are defined as materials which, in themselves, without an initiating force, are readily capable of detonation or explosive decomposition or explosive reaction at normal temperatures and pressures. The water reactive substances release energy when combined with water causing an explosive reaction.

The Department also reviewed the lists of spontaneously combustible, flammable solids, and dangerous when wet materials on the United States Department of Transportation's

(USDOT) Hazardous Materials Table at 49 CFR 172. The Department focused on these lists, 49 CFR 172.101, Class 4, Divisions 4.1, 4.2, and 4.3, because of their potential to be involved in a hazardous chemical reaction.

The NFPA 4 unstable substances and the list of water reactives and the three USDOT Class 4 lists at 49 CFR 172.101 were then further evaluated in light of their chemical composition and their potential impact on the health and safety of the public. To accomplish this, the Department reviewed L. Bretherick's Handbook of Reactive Chemical Hazards (Sixth Edition, 1999), recognized as an authoritative source on the reactive hazards of chemicals. Bretherick's handbook, lists specific classes of chemicals, which contain functional groups that present an inherent hazard by themselves or when reacted with other chemicals. As defined at N.J.A.C. 7:3-1.5, these functional groups represent chemical compounds that have similar structural, molecular features, which impart similar physical characteristics or reactive properties to the compounds in that group (i.e. peroxides, halites, n-nitroso compounds). The Department reviewed the chemical composition of each of the unstable substances listed on the NFPA 4 list, water reactives list and the USDOT Hazardous Materials Table Class 4.1, 4.2 and 4.3 lists were reviewed to determine whether they contained one of the functional groups. By comparing the list of functional groups to the NFPA 4 unstable substances, the water reactives and the substances on the 3 USDOT lists, the Department retained the substances that present a severe hazard to the public. Those substances containing a listed functional group, are being proposed for listing as EHSs at Table I, Part D, Group I, List of Individual Reactive Hazard Substances at N.J.A.C. 7:31-6.3(a).

In addition to the chemical classes identified by Bretherick, the Department reviewed accident histories involving reactive hazards to identify additional functional groups that should be regulated. The Department then reviewed the NFPA and USDOT lists to select additional substances that should be added to the list of individual reactive hazard substances at Table I, Part D, Group I. As a result of this review, the Department is proposing to include on this list the following chemicals that contain the dithionite functional group: calcium dithionite, sodium dithionite, and potassium dithionite. These dithionites were selected because of their accident history and their reactive, spontaneous decomposition and explosive properties.

The Department recognizes in this proposed rule, that additional information may become available that warrants changes to the Table I, Part D, Group I list. These changes would be proposed in future rulemaking.

Along with each reactive hazard substance listed in Table I, Part D, Group I, the Department is proposing a threshold quantity, which if met, would trigger coverage under the TCPA program. The thresholds are based on the amount of reactive hazard substance needed to impact the public beyond an assumed property boundary of 100 meters using an overpressure value of 2.3 pounds per square inch (psi). The 100 meters represents an average distance from the covered process to the property line for facilities in New Jersey. A psi of 2.3 was chosen because damage to nearby buildings and other structures, severe enough to cause serious personal injuries, has been documented at that overpressure. Using these values, the Department used the TNT equivalency method equation to calculate threshold quantities for unintentional reactions:

$W=(D/24)^3*(1024/E)$

Where W = threshold quantity (TQ) of reactive hazard substance (pounds)

D= distance to property line (100 meters = 328 feet)

24=the scaled distance for the mass of TNT that results in a blast overpressure of 2.3 psi (feet/pound $^{1/3}$)

E=energy of explosion of the reactive hazard substance (calories/gram)

1024= the energy of explosion for TNT (calories per gram)

The TNT equivalency method is an industry accepted method described in consequence analysis literature. The TNT equivalency method is used by USEPA in its guidance document for the performance of an off site consequence analysis for flammable substance explosions. In the TNT equivalency method, the explosive energy of a reactive hazard substance is related to an equivalent amount of TNT.

For this equation, the Department originally intended that the energy of explosion be used to estimate threshold quantity. The energy of explosion is the amount of energy released when a substance explodes. However, the energy of explosion for many selected chemicals was not available in the technical sources the Department used. Therefore, the Department estimated the explosion energy of each reactive hazard substance by applying 28% to the value of the heat of combustion or decomposition of the substance, which was a value that was readily available in technical sources. The value of 28% was selected because the ratio of

energy of explosion to heat of combustion for many highly reactive substances, such as TNT, is 28%.

By applying this equation, the Department calculated the threshold quantity of each individual reactive hazard substance. Although there was some variation in the resulting values, the Department is proposing to assign the same threshold quantity of 2500 pounds to all but three reactive hazard substances, three dithionite compounds, in order to facilitate program implementation for the regulated community.

The threshold quantity calculation for these three chemicals—calcium dithionite, sodium dithionite, and potassium dithionite (also known as calcium hydrosulfite, sodium hydrosulfite, and potassium hydrosulfite) resulted in threshold quantity values that were much higher than those calculated for the other Group I chemicals. However, the multiple hazards of reactivity, spontaneous decomposition, and explosivity of these chemicals coupled with their accident history required that they be listed with a threshold quantity that was lower than values derived from the actual calculations. Therefore, the Department is proposing to establish the threshold quantity of each of these three dithionite compounds at 5000 pounds. The list of individual reactive hazard substances and their regulated thresholds is proposed as Table I, Part D, Group I at N.J.A.C. 7:31-6.3(a).

The second reactive hazard substance catastrophic scenario the Department considered involves intentional mixtures. In determining when intentional mixtures would be covered under

TCPA, the Department first considered requiring facility owners or operators to obtain the heat of reaction (ΔH) for each of their intentional reactions to determine the potential for a catastrophic accident. For exothermic reactions, which are chemical reactions that release heat, ΔH is a negative value. Generally, a higher negative ΔH results in a greater impact of an accident.

Because of the large number of intentional reactions that typically occur at many facilities and the resources involved with testing or determining the heat of reaction, the Department is limiting coverage of the TCPA rules to intentional mixtures that are products, byproducts or reactants containing the same functional groups that were used to select the individual reactive hazard substances listed in Table I, Part D, Group I. These functional groups were chosen for the Department's initial listing of reactive hazard substance mixtures because they are inherently unstable, increasing the potential for a catastrophic accident when mixed or blended with other chemicals. These functional groups are proposed at Table I, Part D, Group II at N.J.A.C. 7:31-6.3(a). The Department is proposing to add five additional functional groups (that were not included in Bretherick's list to Table I, Part D, Group II. The chemicals in these functional groups are known to have an accident history, although none are listed in the NFPA and USDOT lists. These five functional groups are listed in Table I, Part D, Group II as numbers 6, 40, 41, 42, and 43.

Intentional reactions involving at least one chemical that contains a Group II listed functional group must be tested to determine the ΔH of that reaction. Once the ΔH is known, the threshold quantity can be determined by referencing new Table II at N.J.A.C. 7:31-6.3(c). The

Department is proposing to change the name of the current Table II at N.J.A.C. 7:31-11.4(c) to Table III. The Department calculated the threshold quantity values on Table II by using the same TNT equivalency equation used for unintentional reactions, described above (328 feet distance to overpressure endpoint, and 2.3 psi overpressure endpoint value) but with ΔH as the heat of reaction with a 100 percent yield factor. Using 100% of the heat of reaction as the estimate for the energy of explosion is a conservative, but reasonable, assumption since the reaction and explosion are occurring in a confined process vessel.

The results of these calculations rounded off to the nearest 100 pounds are listed in Table II at N.J.A.C. 7:31-6.3(c). Table II contains the proposed threshold quantities for ten ΔH ranges from -100 calories/gram to -1000 calories/gram of RHS Mixture. Threshold quantities for each ΔH range are listed in Table II and decrease as the negative ΔH, and the potential consequence, increases. Mixtures having ΔH values of less than -100 calories/gram will not be covered under the TCPA program, because the Department has determined that an accidental release of the mixture presents minimal risk to public health and safety and the environment. Any RHS Mixture having a ΔH of more than -1000 calories/gram presents a high level of risk to the public and is proposed to be regulated at a threshold of 2400 pounds of RHS Mixture.

The Department is proposing that owners or operators of facilities mixing or blending chemicals containing the listed functional groups be required to develop process safety information on reactive hazard substances present in covered processes which contain regulated toxic or flammable EHSs. In the case of a covered process that is currently regulated

under the TCPA rules, this additional process safety information will be included in the risk management program applying to that process.

The Department recognizes in this proposed rule that intentional reactions involving chemicals containing the functional groups specified in Table I, Part D, Group II do not represent a comprehensive list of substances that may be involved in hazardous chemical reactions. There are numerous chemical combinations that may have the potential to cause injury in the course of being intentionally mixed. After further study the Department may propose in a future rulemaking to list additional substances on Table I, Part D, Group II of the EHS list.

At N.J.A.C. 7:31-1.1(c)2iv the Department is proposing to amend the incorporation by reference of the federal definition of "regulated substance" to include proposed Part D, for reactive hazard substances, to the EHS list (Table I at N.J.A.C. 7:31-6.3(a)).

Liquefied Petroleum Gas

The Department is also proposing to add liquefied petroleum gas (LPG) and its constituents, when processed or used as feedstocks, to the list of flammable EHSs at N.J.A.C. 7:31-6.3. The federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (CSISSFRRA), P.L. 106-40, enacted in August 1999, and the federal regulations at 40 CFR 68.126 adopted March 13, 2000, exclude from coverage under the federal Accidental Release Prevention (ARP) program flammable fuels held for retail sale, or used, as fuel. However, the processing of these flammable substances and their use as feedstocks in industrial processes is covered under the ARP program. Although no changes are being made to the rule text, the

regulated community should be aware of the change to N.J.A.C. 7:31-6.1(a) because of changes to the Federal rules. By incorporating by reference this provision into the TCPA rules, the Department will regulate LPG, and all flammable fuels in the same manner as the ARP program by excluding their coverage under the TCPA rules when used as a fuel or held for sale as a fuel at a retail facility. The Department is proposing to amend N.J.A.C. 7:31-6.1(c)5ii to delete the current exemption for listing LPG at N.J.A.C. 7:31-6.3(a) Table I, Part C.

In the re-adoption of the TCPA rules, published in the New Jersey Register on July 20,1998 (30 N.J.R. 2737), the Department explained its decision to withdraw its proposed listing of LPG gas and its constituents as flammable EHSs. This decision was based on the fact that LPG was already regulated by the New Jersey Department of Community Affairs' Office of Safety Compliance under the New Jersey Liquefied Petroleum Gas Act of 1950, N.J.S.A. 21:1-B et seq. and the regulations promulgated pursuant to that Act at N.J.A.C. 12:200. In response to several comments concerning the impact on small businesses of regulating LPG fuels under the TCPA program, the Department agreed to rely on the LPG Act to supplement the federal ARP rules and provide adequate protection to the public. At that time, the federal ARP program did not exclude LPG gases when used as fuels. The Department stated that it may, at a later time, re-evaluate the need for additional coverage under TCPA. Since the ARP program rule at 40 CFR 68.126 now excludes from regulation flammable substances used as fuel or held for retail sale for use as fuel, the Department is proposing to regulate LPG gases in the same manner as the USEPA, when processed or used as feedstocks. This will make the State and federal programs consistent in the regulation of LPG. The flammable substances comprising LPG

(propane, propylene, butanes and butylenes) and their threshold quantities will be added to the EHS list at Part C of Table 1 at N.J.A.C. 7:31-6.3.

State of the Art Standard

The Department is proposing to require "state of the art" as the standard to be used for the development of risk reduction plans. "State of the art" was the standard used in the TCPA rules prior to the 1998 rule re-adoption. This standard assures that the risk reduction plans developed by owners and operators reflect the most updated, practicable technologies available for minimizing the risk of catastrophic accidental releases and that the cost of these technologies is reasonable and commensurate with the risk reduction achieved. The definition of "state of the art" is proposed at N.J.A.C. 7:31-1.5 and as a requirement for evaluating risk reduction options at N.J.A.C. 7: 31-4.2.

Inherently Safer Technologies

The Department is also proposing to add a definition of the term "inherently safer technology" at N.J.A.C. 7:31-1.5. This definition would be applied to new covered processes. The concept of "inherently safer" implies that the process has been designed to minimize or eliminate the hazard of EHS releases through the use of safer chemicals, reduced chemical inventories, and improved equipment maintenance and design to minimize the potential for equipment failure and human error. A new rule at N.J.A.C. 7:31-4.2 (g) is proposed to require owners and operators to evaluate their new processes to incorporate the principle of "inherently safer" technology.

New Penalty Table

The Department is proposing to replace the current Table II at N.J.A.C. 7:31-11.4(c), which often groups several violations into one category of offense, with an expanded version, called Table III, that lists each possible rule violation as a separate category of offense. This new Table III will enable the Department to correlate each item of non-compliance to a specific citation and penalty amount.

The new penalty table assigns a penalty to each category of offense. These penalties reflect the potential impact on public health and the environment of non-compliance and the degree to which the non-compliance is contrary to the goals of the TCPA. In some cases, these penalties differ from the penalties listed in the current Table II. This is due to the regrouping of the TCPA violations from the 60 current categories of offense into 592 distinct categories of offense. The increase in the number of categories of offense has occurred because a rule paragraph may contain several subparagraphs that are not separately listed in the current Table II. Each subparagraph contains a specific rule requirement. Listing the violation of each subparagraph requirement as its own category of offense enables the Department to assign an appropriate penalty to each item of non-compliance. In addition, proposed Table III will correct current Table II omissions or inconsistencies with the actual language of the rules.

The Department's proposal to replace the existing penalty table with a new penalty table will not result in changing any activity that is currently a violation into a non-violation nor changing any non-violation into a violation. Proposed Table III paraphrases each regulatory

requirement, assuring that the descriptions of the items of non-compliance are consistent with the language of the rule and references the appropriate State and federal citations.

Additional Rule Revisions

As discussed below, the Department is proposing several amendments to clarify the language of the current rules and update the rules to reflect changes that have occurred over the past five years that affect the implementation of the program. The Department is also proposing several additional requirements to the current rules many of which are required because of the listing of reactive hazard substances as EHSs.

At N.J.A.C. 7:31-1.1(c)3ii the Department is proposing to clarify the schedule for implementation of these rules from to make clear that owners or operators with covered processes containing EHSs listed in N.J.A.C. 7:31-6.3, in Table I, Part D or LPG gases listed in Part C must comply with the requirements of this chapter by September 30, 2004. Owners or operators with covered processes containing EHSs listed in N.J.A.C. 7:31-6.3, in Table I, Parts A, B or C (except for LPG gases) shall continue to comply with the requirements of this chapter and shall revise their risk management programs in accordance with the schedule set forth in N.J.A.C. 7:31-7.5.

At N.J.A.C. 7:31-1.1(c)4ii(3), 4ii(4) and 4iii(4) the Department is proposing changes to the incorporation by reference of 40 CFR 68.12 to reflect new citations.

The Department is proposing a definition of "functional group" at N.J.A.C. 7:31-1.5. This term is used to describe how certain chemicals were chosen to be listed at reactive hazard substances subject to regulation under the TCPA program.

The Department is proposing to add a definition of "heat of reaction" at N.J.A.C. 7:31-1.5. This term is used in the rule in determining whether certain reactive hazard substance mixtures are subject to the TCPA rules. The heat of reaction is the change in the amount of heat energy, expressed as ΔH in calories per gram, that occurs in a process vessel during a chemical reaction. The heat of reaction includes the heat of decomposition, heat of explosion or heat of combustion depending on the chemical reaction(s) taking place.

The Department is proposing to add a definition of "industrial complex" at N.J.A.C. 7:31-1.5, to define properties that were once occupied by one stationary source that was divided into 2 or more regulated stationary sources, each having its own risk management program. Such companies continue to co-occupy, operate, and produce related products at the original site. Each company in the industrial complex is regulated under TCPA and files its own Risk Management Plan (RMP) with the Department and USEPA defining the property boundary for its own stationary source. Although these companies are independent of the predecessor and each other, they continue to share infrastructure (piping, equipment, utilities, parking lots, security personnel, emergency response teams, and other services), site access and a history of their previous integration with the predecessor company. In addition, the companies comprising the industrial complex routinely share information with each other and their

employees regarding accident investigations as well as the results of their process hazard analyses and risk assessment reports.

The industrial complex definition is being proposed to enable companies in the complex to use the original site boundary in determining what is offsite for accident notifications and for identifying risk reduction scenarios. Allowing companies in an industrial complex to use the original site boundary for fulfilling these state requirements has two advantages. First, using the original site boundary rather than the individual site boundaries will reduce the effort necessary to fulfill the State's requirements for accident notification without reducing the information available to the other companies co-occupying the site. Second, each company will be able to limit the scenarios upon which their risk reduction evaluations are based while apprising the other companies of the results of their process hazard analyses and risk assessments. The Department is proposing amendments at N.J.A.C. 7:31-4.2(f) and 5.2(b)4iii(1) to allow the original property boundary to be used by companies in an industrial complex, as defined at N.J.A.C. 7:31-1.5, for fulfilling the State's risk reduction and accident notification requirements.

The Department is proposing to amend the definition of "material deficiency" to clarify that the term refers to an inadequacy of the owner or operator's risk management program rather than a violation of the rules. Although, the current rule only cites to the requirements of Subchapter 3 and 4 for material deficiencies, material deficiencies may be found in other risk management program areas such as emergency response planning (N.J.A.C. 7:31-5) or the documentation system (N.J.A.C.7: 31-1.1(c) 5). Material deficiencies discovered during a program audit will continue to be listed in a consent agreement along with the corrective actions

that need to be taken to maximize the effectiveness of the program. Unlike violations of the rules, material deficiencies do not become part of the facility's enforcement history and no penalty is assessed upon discovery.

The Department is also proposing to expand the definition of "risk management program" at N.J.A.C. 7:31-1.5 to clarify the intent of the Act to include all activities performed and documents prepared for the purpose of minimizing the extraordinarily hazardous accident risks, rather than only the accidental release prevention program elements of Subchapters 3 and 4 as stated in the current rule.

The Department is proposing to repeal N.J.A.C. 7:31-1.11, Fees, from the rule. This rule was superseded by N.J.A.C. 7:31-1.11A, Fees, on June 21, 1999.

Several minor changes to the existing fee rules are proposed to make the rules consistent with the program as implemented. At N.J.A.C. 7:31-1.11A (c) the Department will clarify that the base, covered process and inventory fees are determined during the month of October rather than December. At N.J.A.C. 7:31-1.11A (g) and (i) the Department is proposing to delete references to the registration form as the basis for calculating the annual fee since the registration form has been replaced by the Risk Management Plan (RMP) and is now obsolete. Proposed N.J.A.C. 7:31-1.11A (p) clarifies that owners and operators whose current Risk Management Plans indicate having at least one EHS over the threshold quantity will be billed the full base and covered process fees even if the use, storage, handling or manufacture of other EHSs at threshold quantities at the stationary source have been discontinued. N.J.A.C.

7:31-1.11A (q) and (r) are proposed to be amended to reflect the repeal of N.J.A.C. 7:31-1.11 and to advise the regulated community of the proper procedure for remitting the fee for review of a petition to claim confidentiality or withhold privileged trade secret or security information.

As a result of the Department's proposal to list reactive hazard substances as EHSs, the Department is proposing to add a new rule at N.J.A.C. 7:31-2.2, RHS hazard assessment. This proposed rule lists the requirements for conducting a hazard assessment for an RHS or RHS Mixture. N.J.A.C. 7:31-2.2(a) describes the requirements for conducting the hazard assessment, selecting the worst case and alternative case scenarios, and reporting the results in the Risk Management Plan. Proposed N.J.A.C.7:31-2.2(b) contains the parameters and methods to be used for conducting the RHS hazard assessment. At N.J.A.C. 7:31-2.2(c) the Department is proposing to exempt owners and operators who have mixtures of reactive hazard substances and registered toxic or flammable EHSs in the same covered process from the requirement to perform a hazard assessment for the reactive hazard substance mixture. The Department is proposing this exemption because a hazard assessment has already been performed for the toxic or flammable EHS.

At N.J.A.C. 7:31-3.1(c)1i, the Department is proposing to amend the incorporation by reference of 40 CFR 68.48 to delete the word "simplified" describing process flow diagrams and piping and instrumentation diagrams. This word is being deleted to clarify what is actually required. In order to be considered complete, the information on the diagrams must meet the requirements listed in their respective definitions at N.J.A.C. 7:31-1.5. Simple processes will be reflected in simple diagrams while more complex processes will require more detailed drawings.

In addition to the proposed change at N.J.A.C. 7:31-3.1(c)1i, the Department is proposing to add requirements at N.J.A.C. 7:31-3.1(c)1ii for owners and operators to compile and maintain safety information related to reactivity data for covered processes. Reactivity data, such as flashpoint, unusual fire and explosion hazards, and instability hazards of the chemicals in a covered process, are necessary to evaluate hazards associated with reactive hazard substances.

At N.J.A.C. 7:31-3.1(c)3 and N.J.A.C.7:31-4.1(c)8, the Department is proposing to expand the current rule by adding a requirement that standard operating procedures be written in English and in a manner that the EHS operator of the covered process is capable of understanding. If the EHS operator does not understand English, then the standard operating procedures must be written in a language that the operator can understand.

The incorporation by reference of 40 CFR 68.58 (a), Compliance audits, at N.J.A.C. 7:31-3.1 (c) 5, is being amended to clarify the State requirement that the owner or operator of a Program 2 covered process verify that the process technology and equipment, as built and operated, are in accordance with the federal and State safety information requirements of the rules.

The Department is proposing to add a new requirement for owners and operators of Program 2 processes to prepare a hazard review report to document the results of the hazard

review requirements of 40 CFR 68.50, which are incorporated by reference into the TCPA rules at N.J.A.C. 7:31-3.1. Although owners and operators are required to document the results of the hazard review, the current rules do not specify the format or content of the documentation. The report requirement will be proposed as a new rule at N.J.A.C. 7:31-3.5, which will specify the information that must be contained in the report and that the required hazard review reports must be retained for the life of the covered process. The incorporation by reference of Subpart C of 40 CFR 68 at N.J.A.C. 7:31-3.1 will be amended to add N.J.A.C. 7:31-3.1 (c) 9 to reference the new requirements at N.J.A.C. 7:31-3.5.

At N.J.A.C. 7:331-3.1(c)10 the Department is proposing to amend the incorporation by reference of 40 CFR 68.58(d) to include State requirements for a written schedule and status report for taking corrective actions to remedy deficiencies found during a compliance audit.

The Department is proposing to amend the triennial reporting requirements at N.J.A.C. 7:31-3.3(b) to list the specific information that must be submitted as part of a triennial report. Although no new requirements are being proposed, the numbering has been changed from N.J.A.C. 7:31-3.3(b)1-5 to 1-6 to clearly specify the triennial reporting requirements. The Department is also proposing to delete N.J.A.C. 7:31-3.3(c) regarding the last date for submission of the first triennial report (September 21, 2002) since that date has passed.

As discussed in the explanation of N.J.A.C. 7:31-3.1(c)9, the Department is proposing a new rule at N.J.A.C. 7:31-3.5 to specify the information that must be contained in the hazard

review report and that the hazard review reports must be retained for the life of the covered process.

A change to the incorporation by reference of 40 CFR 68.79(a) at N.J.A.C. 7:31-4.1(c)13, is proposed to specify that the owner or operator must verify that the process technology and equipment, as built and operated, are in accordance with the process safety information required at 40 CFR 68.65 (c) and (d) as incorporated by reference with changes at N.J.A.C.7:31-4.1(c)1-4. Also, at N.J.A.C.7:31-4.1(c)13, the Department is proposing to add the State citation (N.J.A.C. 7:31-4.1(c) 1 through 4) for the incorporation by reference of 40 CFR 68.65(c) and (d).

The Department is proposing a provision at N.J.A.C. 7:31-4.1(c)23 to reflect a new State requirement for owners and operators of a Program 3 covered process to prepare a schedule for the implementation of corrective actions or state that corrective action has been taken to remedy deficiencies found during the compliance audit. This proposed provision requires that the existing incorporation by reference of 40 CFR 68.79(d), without changes, be modified to specify these changes to the Federal rule.

As a result of the Department's proposal to add certain reactive hazard substances to the EHS list, the Department is modifying its incorporation by reference of the federal process safety information requirements of 40 CFR 68.65(b) currently incorporated by reference without changes at N.J.A.C. 7:31-4.1(a), by specifying the required information concerning the reactivity hazards of the EHS in a process. The Department is proposing to add N.J.A.C. 7:31-

4.1(c) 24-26 to specify the reactivity data that owners and operators must compile to meet process safety information requirements.

At N.J.A.C. 7:31-4.1(c)24 the Department is proposing a new provision specifying the information (such as flashpoints, special fire fighting procedures, unusual fire and explosion hazards, heat of reaction, unstable byproducts) to be provided to meet the reactivity data requirements of 40 CFR 68.65(b)4 currently incorporated by reference without changes at N.J.A.C. 7:31-4.1(a).

At N.J.A.C. 7:31-4.1(c)25 the Department is proposing a new provision to specify the information regarding thermal and chemical stability data (such as stability, conditions to avoid, hazardous decomposition, incompatibility) required at 40 CFR 68.65(b)6 currently incorporated by reference without changes at N.J.A.C. 7:31-4.1(a).

The Department is also proposing a new provision at N.J.A.C. 7:31-4.1(c)26 to specify the information required at 40 CFR 68.65(b)7, currently incorporated by reference without changes at N.J.A.C. 7:31-4.1(a), regarding hazardous effects of inadvertent mixing of different materials. This information includes explosive or flammable effects of inadvertent mixing, identification of potential flammable or toxic EHSs capable of being generated due to inadvertent mixing with incompatible substances, decomposition or self-reaction.

The Department is proposing to make several changes to the process hazard analysis with risk assessment requirements at N.J.A.C. 7:31- 4.2. At N.J.A.C. 7:31-4.2(b)1, the

Department is proposing to add a requirement to include existing or planned safeguards, to the list of items owners and operators of Program 3 covered processes should consider when evaluating release scenarios for the risk assessment portion of the process hazard analysis. This will result in a more accurate estimation of the release quantity in the evaluation of the planned or existing mechanisms in place to reduce the risk of an accidental release.

The Department is proposing to add a requirement at N.J.A.C. 7:31-4.2(b)2 for owners and operators to consider the explosive/flammability hazard when performing a process hazard analysis with risk assessment for processes where a listed reactive hazard substance is present.

The Department is proposing to amend N.J.A.C. 7:31-4.2(b)3 to require owners and operators to identify, as part of the process hazard analysis, all scenarios involving toxic, flammable and reactive hazard substances that could have a potential offsite impact from an accidental release.

At N.J.A.C. 7:31-4.2(b)3iii and iv the Department is proposing to change the values of the overpressure parameters, which determine the risk assessment endpoint distance, from their current values of 18.5 psi and 14.5 psi to 5 psi and 2.3 psi. This proposed change, which reflects the overpressure values that will cause structural damage and permanent disability to anyone in or near the damaged building, will result in better identification and consequence analysis of release scenarios that have the potential to impact the public.

The Department is proposing to expand N.J.A.C. 7:31-4.2(c) to include the state of the art standard, as defined at N.J.A.C. 7:31-1.5, for identifying risk reduction measures. N.J.A.C. 7:31-4.2(c)1-3 describe the requirements for determining when a state of the art evaluation must be performed and incorporating state of the art measures in a risk reduction plan.

The proposed amendments at N.J.A.C. 7:31-4.2(d)1, 2iv and 4 clarify and update the citations regarding the maintenance of documentation from the process hazard analysis with risk assessment. At N.J.A.C. 7:31-4.2(d)2iv the Department is proposing to replace the term "frequency" with the term "likelihood" as it relates to the reduction of risk from an accidental release because "likelihood" is the term used in the TCPA statute. At N.J.A.C. 7:31-4.2-(d)5 the Department is proposing to require documentation of completion for each risk reduction measure in the risk reduction plan or an explanation of any changes made for each measure in the risk reduction plan.

At N.J.A.C. 7:31-4.2(e)3 the Department is proposing to amend the citation to clarify that scenarios identified pursuant to N.J.A.C. 7:31-4.2(d) must be included in the risk reduction plan as well as those identified pursuant to N.J.A.C. 7:31-4.2(c).

At N.J.A.C. 7:31-4.2 (f) the Department is proposing to allow owners and operators of stationary sources in an "industrial complex" as defined at N.J.A.C. 7:31-1.5, to use the property boundary of the industrial complex in lieu of the stationary source property boundary for identifying the release scenarios with offsite impact.

At N.J.A.C. 7:31-4.2(g) the Department is proposing to require owners and operators of new covered processes to evaluate inherently safer technology of these processes to minimize the risk of accidental releases. A new definition of "inherently safer technology" is proposed at N.J.A.C. 7:31-1.5.

At N.J.A.C. 7:31- 4.3(b)5iii the Department is proposing an alternative to having an EHS operator on site during certain storage activities, if a risk assessment demonstrates that the presence of an EHS operator during the specified activity is not necessary. The Department is also proposing to add an exemption to the requirement at N.J.A.C. 7:31-4.3(b)5iv for an EHS operator to be in attendance at all times at the stationary source during operations to acknowledge alarms and take corrective action to prevent an accidental release. This exemption will be limited to closed loop anhydrous ammonia systems having anhydrous ammonia detection monitoring equipment capable of automatically isolating and shutting down EHS equipment. The current design of automated ammonia refrigeration systems and ammonia detection technology eliminates the need for an operator to be in attendance at the stationary source at all times.

At N.J.A.C. 7:31-4.5(b) the Department is proposing to amend the language to specify that an owner or operator must implement a system for maintaining EHS equipment records that will not only facilitate data retrieval but will enable the data to be analyzed to determine equipment reliability. Maintenance of records in a manner that enables the performance of equipment reliability studies was a requirement of the TCPA rules that expired in June 1998. The proposed rule does not require the performance of such studies; rather it requires

maintenance records to be stored in a system that allows for retrieval and analysis if equipment reliability studies need to be performed.

At N.J.A.C. 7:31-4.6(b) the Department is proposing to replace “or” with “and” at the end of the first sentence. This will clarify that all listed items of information must be identified when an increase in rate, duration or quantity, or release frequency occurs which results in the need to analyze release scenarios as part of the management of change.

The Department is proposing to amend the State emergency response requirements at N.J.A.C. 7:31-4.8 to clarify that owners and operators of Program 3 covered processes are required to comply with all emergency response provisions of Subchapter 5, not only those set forth in N.J.A.C. 7:31-5.1. The proposed language will reference N.J.A.C. 7:31-5 rather than N.J.A.C. 7:31-5.1.

At N.J.A.C. 7:31-4.9 (b)1-5 the Department is proposing to be more specific as to the information that is to be contained in the annual report. No additional reporting requirements are being imposed as the proposed language only serves to clarify when supplemental information and changes in the management system must be included. At N.J.A.C. 7:31-4.9(b)5, the Department is also amending the referenced federal and State citations.

Proposed amendments to the emergency response rules at N.J.A.C. 7:31-5.2(b) will clarify that an owner or operator must actually develop and implement a written emergency response plan. The written emergency response plan must actually include initial and annual

refresher training for employees regarding implementation of the plan and actual performance of an EHS emergency response exercise annually; the current rule only requires a schedule for the training and the exercise rather than actual performance. Also, at N.J.A.C. 7:31-5.2 (b) 4i, the Department is changing the telephone number of the DEP emergency communications center to reflect its new toll free number. As explained earlier in this Summary, at N.J.A.C. 7:31-5.2 (b) 4iii(1) the Department is proposing an expansion of the exemption from notification of an EHS accident to include EHS releases that have no impact beyond the industrial complex property boundary.

At N.J.A.C. 7:31-6.2(d) the Department is proposing to clarify the procedure for calculating whether a mixture containing a toxic EHS meets the threshold for coverage under the TCPA program. This determination is based upon whether the mixture has a concentration specified in Table I, Part A. It further depends on whether when a concentration is specified, that concentration is specified in weight or volume percent. This rule, which explains how to calculate the quantity of the toxic EHS in the mixture to determine if it meets the threshold, applies to EHS mixtures where no concentration is given in N.J.A.C. 7:31-6.3(a) Table I**,** Part A.

As discussed in detail in the Summary above, new provisions are being proposed at N.J.A.C. 7:31-6.2(g) and (h) for determining the threshold quantity for a reactive hazard substance mixture (RHS Mixture) containing at least one functional group on Table I, Part D, Group II. For these mixtures, the threshold quantities for coverage under TCPA will be based on the heat of reaction (ΔH) of the mixture found at proposed Table II of N.J.A.C. 7:31-6.3(c).

As discussed in detail in the Summary above, the Department is proposing to amend the list of flammable EHSs at N.J.A.C. 7:31-6.3 to delete the 1998 exemption for LPG gases. Under this proposal, previously exempt LPG gases will now be subject to the TCPA rules when they are not used as fuels or held for sale at retail facilities.

As discussed in the Summary above, new provisions at N.J.A.C. 7:31-6.3 are being proposed for regulating reactive hazard substances under the TCPA program. The Department is proposing to expand the EHS list in Table I at N.J.A.C. 7:31-6.3 to include new Part D for reactive hazard substances. Group I of the new Part D lists individual reactive hazard substances which have the potential to be involved in unintentional reactions, and their threshold quantities. Coverage under the TCPA program for the Group I substances will be based solely on whether the listed threshold quantity for the substance is present in a process at the facility. Group II of the new Part D contains the functional groups of chemicals that have been identified as having the potential to cause offsite fatalities or permanent disability as a result of an accident during intentional mixing of chemicals that contain or generate these groups. Table II at N.J.A.C. 7:31-6.3(c) presents the correlation between the heat of reaction of a mixture of chemicals containing Group II functional groups and the thresholds for coverage under TCPA.

The Department is proposing new N.J.A.C. 7:31-6.3(b), which contains several conditions for TCPA coverage for newly listed RHSs or RHS Mixtures regarding applicability criteria and threshold quantity determination. At N.J.A.C. 7:31-6.3(b)1, the Department is proposing to exempt individual reactive hazard substances listed on Table I, Part D, Group I that are

received, stored and handled in mixtures with other chemicals which have been specifically formulated to inhibit the reactive hazard. These formulations are designed to inhibit the RHS from exhibiting the hazard for which it is listed while in storage.

At N.J.A.C. 7:31-6.3(b)2 the Department is proposing to define "reactive hazard substance mixture" or RHS Mixture as an EHS that is a combination of substances that is intentionally mixed in a process vessel and is capable of undergoing a chemical reaction which produces toxic or flammable EHSs or energy. The negative value of the heat of reaction of an RHS Mixture is greater than or equal to 100 calories per gram of RHS Mixture. RHS Mixtures include a reactant, product, or byproduct that is a chemical substance or a mixture of substances having one or more of the chemical functional groups specified in Table I, Part D, Group II.

At N.J.A.C. 7:31-6.3(b)2i-iii the Department is proposing conditions for TCPA coverage concerning the heat of reaction and exemptions for these RHS Mixtures concerning the heat of solution or dilution and RHS Mixtures processed only in an air permitted scrubber. The methods for determining the heat of reaction for RHS Mixtures is proposed at N.J.A.C. 7:31-6.3(b)2iv.

The Department is proposing to update N.J.A.C. 7:31-7, Risk Management Plan and TCPA Program Submission, to delete references to the June 21,1999 deadline for submission of the original RMP to USEPA and the Department since that date has passed. The Department is proposing to make revisions to the incorporation by reference of 40 CFR 68.150(a) at N.J.A.C. 7:31-7.1(c)1 and 2 to clarify submittal requirements of risk management plans to

USEPA and the Department. At N.J.A.C.7:31-7.1(c)6, the Department is modifying the incorporation by reference of 40 CFR 68.190(c) to require owners and operators that no longer have a threshold quantity of an EHS at the source to deregister from the program by notifying the Department as well as USEPA.

The Department is proposing to add a provision at N.J.A.C. 7:31-7.2(a)2v to require owners and operators to identify covered processes and process vessels containing reactive hazard substance mixtures in the supplemental information submitted to the Department. At N.J.A.C. 7:31-7.2(a) 3i through iv, the Department is proposing new provisions for registering reactive hazard substances and reactive hazard substance mixtures in the risk management plan submitted to the Department.

The Department is proposing to require at N.J.A.C. 7:31-7.2(b) that owners and operators update their RMPs within 30 days of an increase in the EHS maximum inventory of a covered process. Reducing the notification time from 6 months to 30 days is necessary to ensure that the Department is aware of a change in operations at the facility that has the potential to impact the public. Timely updates for an EHS maximum inventory increase will also assist the Department in its annual fee assessments, which are, in part, based on the inventory at the facility.

The Department is proposing to change the schedule for risk management program implementation at N.J.A.C. 7:31-7.5 to cover the transition period between the effective date of the readopted rules and the deadline for compliance with the amended rules. Owners and

operators having newly listed EHSs will have until September 30, 2004 to register these EHSs with the Department and submit risk management plans detailing their risk management programs. Owners and operators of currently regulated stationary sources, having no newly listed EHSs, are required to comply with their approved risk management programs until they revise their risk management programs to reflect the new rules, which must be completed by January 1, 2004.

The Department is proposing to correct an omission at N.J.A.C. 7:31-8.1(c)1, which incorporates by reference the record keeping requirements of 40 CFR 68.200. Currently, this rule only references the record keeping requirements of Subchapter 4 for Program 3 covered processes without referencing Subchapter 3 for Program 2 covered processes. A reference to Subchapter 3 is proposed to be added to the end of the provision.

At N.J.A.C. 7:31-8.1(c)4 the Department is proposing to clarify the language of this provision by adding a sentence at the end of the provision rule stating the Department will audit the facility to determine compliance with the entire TCPA rule. This will clarify that the purpose of the Department's audit is to review the adequacy of risk management programs and RMPs and require revisions if necessary to ensure compliance with the TCPA rules.

As discussed in detail in this Summary, at N.J.A.C. 7:31-11.4(c) the Department is proposing to delete Table II, the current penalty table, and replace it with Table III, an expanded version that lists all possible violations of the rules and the penalty assigned to each violation.

Social Impact

The TCPA rules will continue to provide a positive social impact by requiring extraordinarily hazardous substances to be handled in a manner that protects public health, safety and the environment. The effectiveness of the TCPA program is reflected by the fact that, since its inception in 1988, no reported fatalities have occurred as a result of an accidental EHS release from a facility regulated under the TCPA program. The rules ensure reasonable and necessary standards for the regulation and management of EHSs.

The proposed amendments will enhance the TCPA program in several ways. The proposed amendments will clarify or supplement the current rules, which will facilitate increased understanding and compliance. Regulation of reactive hazards will expand program coverage to include a category of substances that have been identified as a contributing cause of industrial accidents. These accidents have resulted in injuries and fatalities in New Jersey as well as in many other states. The TCPA rules will require owners and operators of facilities that handle these reactive substances to develop and implement risk management programs to minimize the risk of accidental releases. By regulating LPG gases as EHSs when used as feedstocks or process ingredients, the Department will regulate these flammable gases in the same manner as the federal ARP program, without having a negative impact on fuel dealers and users. Regulation of reactive hazard substances and LPG gases as EHSs is expected to bring approximately 40 new stationary sources into the TCPA program, requiring their owners

or operators to prepare and implement risk management programs. A detailed analysis of the numbers and types of businesses expected to be impacted by these proposed rules is presented in the Economic Impact Statement below.

The proposed penalty provisions will have a positive social impact by encouraging compliance with the TCPA rules. Listing each possible violation of the rules and assigning penalties for each occurrence of non-compliance provides a fairer basis of assessing penalties and will enable the regulated community to better understand the consequences of non-compliance.

Requiring owners and operators to evaluate state of the ar t risk reduction options for existing covered processes will have a positive social impact by minimizing the potential for accidental EHS releases that could affect the public if the owner or operator determines that implementing state of the art options is cost effective. The evaluation of inherently safer technologies when designing new processes will have a positive social impact by reducing the use and generation of hazardous substances if new processes are built and operated in accordance with these technologies.

Economic Impact

These proposed amendments are projected to bring 40 currently unregulated businesses into the TCPA program increasing the census of regulated sources from the current 105 to 145. This projection of 40 new regulated sources is based on the Department's review of Community Right to Know chemical inventory data for calendar year 2000, the most current year for which

information is available. By comparing the reactive hazard substances proposed for listing at Table I, Part D, Groups I and II and the LPG substances with the chemical inventories reported for 2000, the Department was able to estimate the numbers and types of businesses that may become subject to the TCPA rules. It should be noted that use of the Community Right to Know data for this purpose has limitations due to the fact that the inventories of the chemicals are reported in quantity ranges, such as 100 to 1000 pounds, rather than specific quantities. Thus, it is difficult to predict precisely how many businesses actually have the listed chemical at threshold quantities and how many of these business entities will continue to use, manufacture or store these newly listed substances. The estimate of covered processes and EHS inventory at those 40 new sources is also based on that Right to Know data. Exhibit 1 below shows the projection of the numbers of new registered stationary sources, covered processes, and hazard units of EHS inventory, where each hazard unit is a multiple of the threshold quantity.

Exhibit 1 – TCPA Registrant Census

Regulated Entity	October 2002 Census	Projected Census June, 2005
Stationary Sources	105	145
Covered Process	147	205
Hazard Units of Inventory	53,900	69,334

The substances added to the EHS list are described earlier in this Summary. As shown in Exhibit 2 below, the addition of LPG and reactive hazard substances EHSs will result in the following increase in the number of sources, covered processes and hazard units.

Exhibit 2 - Projected Census of New Sources with New EHSs

	Number of Sources	Number of Processes	Number of Hazard Units
LPG hydrocarbons added to the list of flammable substances	9	11	280

Individual reactive hazard substances added at Part D, Group I	5	8	160
Reactive hazard substance mixture functional groups added to Part D, Group II	26	26	70
Total	40	45	510

The larger census of TCPA regulated facilities is projected to reduce the annual TCPA fee assessed to each current registrant resulting in a positive economic impact for the currently regulated registrants. The annual fees assessed to registrants is based on the costs to support the TCPA program. The larger census will reduce the fees to each current registrant because the current FY 2003 Department annual expense of $1.24 million is projected to be unchanged in FY 2005 when regulation of the newly listed EHS becomes effective and the annual cost will be divided among new registrants and current registrants. The TCPA fee is made up of three unit fees: a base fee paid by each stationary source, which is 40% of the cost of program; a covered process fee for each process covered under TCPA at each stationary source, which accounts for 40% of the program costs; and a hazard unit fee for each inventory multiple of EHS threshold quantity, which is 20% of the program costs. Fees are set each year based on the annual TCPA program expenses. Since program expenses are expected to remain the same for FY 2005, the unit fees paid by each owner or operator will be reduced since the program costs will be shared by more businesses. Listed below in Exhibit 3 are the unit fees projected for FY2005 and those assessed for 2003. Exhibit 3A shows how the Department arrived at these unit fees.

Exhibit 3 – TCPA Fees

	FY 2003 Unit Fees	Projected FY 2005 Unit Fees
Base Fee (per source)	$2,450	$1,760
Process Fee (per covered process at a source)	$3,380	$2,420
Inventory Fee (per Unit of EHS threshold quantity)	$9.20	$7.15

Exhibit 3A -TCPA Program Base, Process and Inventory Annual Unit Fees Proposed Rule

Department Expense = $1.24 million		Under Current Rule FY 2003		Under Proposed Rule FY 2005	
Percent Contribution	Aggregate Contribution	Census (1)	Unit Fee. Rounded	Census (1)	Unit Fee, Rounded
Base fee, 20 percent	$248 K	101.25 sources	$2,450	141.25 sources	$1,760
Process fee, 40 percent	$496 K	147 covered processes	$3,380	205 covered processes	$2,420
Inventory fee, 40 percent	$496 K	53.9K hazard units	$9.20	69.3K hazard units	$7.15

Notes:

(1) The105 and 145 sources tabulated in Exhibit 1 translate to 101.25 and 141.25 full fee equivalent, respectively, for fee determination purposes.

The cost of compliance with the proposed rules will vary according to the current regulatory status of the business and whether the business has a newly listed EHS. New registrants will not only be assessed the TCPA fee, they will also be impacted by incurring costs to develop and implement risk management programs. Current registrants with newly regulated EHSs will incur the cost of modifying their risk management programs. Current registrants that do not have newly listed EHS should not incur any significant additional program costs. Exhibit

4 below presents the initial and ongoing TCPA costs with a listing of the tasks and projected effort in person-hours for developing and implementing risk management programs plus salary rates on which the costs are based, plus the annual TCPA fee.

Exhibit 4 - Effort and Cost Data of Representative Sources
To Comply with Amended Rule

	Source ID (see descriptions below)	A	B	C
	Processes, Total	1	1	1
	Program 2	0	0	0
	Program 3	1	1	1
	Hazard Units	23	5	16.4
	Piping and instrumentation diagrams	6	6	3
	RMPlan Submittal Cost, $	1036.5	1470	0
	Calorimetric Testing, $ each	2000	0	0
	Initial TCPA Cost, $	5478	14740	454
	Annual Ongoing TCPA Cost, $	4286	6960	180
	Annual TCPA Fee, $ (FY 2005)	4344.45	4215.75	4297.26
1	Wage Rates, $/hr			
1.1	Corporate	76.5	70	76.5
1.2	Management	61	55	61
1.3	Technical	40	35	35
1.4	Production	25	20	20
2	Activity Effort, Person Hours			
2.1	RMPlan Prep and Submittal			
2.1.1	Executive Summary			
2.1.1.1	Technical	12	12	0
2.1.2	Registration Data			
2.1.2.1	Technical	2	4	0
2.1.3	Accident History			
2.1.3.2	Corporate	1	1	0
2.1.3.1	Technical	2	2	0
2.1.4	Emergency Response			
2.1.4.2	Corporate	0	2	0
2.1.4.1	Technical	0	2	0
2.1.5	Offsite Consequence Analysis			
2.1.5.1	Technical	8	16	0
2.2	Initial TCPA Effort			
2.2.1	Rule Familiarization			
2.2.1.1	Management	4	8	4
2.2.1.2	Technical	6	16	6
2.2.2	PreStart Up Review			

2.2.2.1	Technical	2	10	0
2.2.3	Accident Investigation			
2.2.3.1	Technical	2	10	0
2.2.4	Management of Change			
2.2.4.1	Management	1	12	0
2.2.4.2	Technical	2	24	0
2.2.4.3	Production	1	12	0
2.2.5	Process Safety Information			
2.2.5.1	Technical	2	24	0
2.2.6	Process Hazard Analysis			
2.2.6.1	Management	20	24	0
2.2.6.2	Technical	40	48	0
2.2.7	Standard Operating Procedure			
2.2.7.1	Management	2	8	0
2.2.7.2	Technical	4	40	0
2.2.7.3	Production	4	20	0
2.2.8	Employee Training			
2.2.8.1	Technical	4	30	0
2.2.8.2	Production	4	20	0
2.2.9	Maintenance Development			
2.2.9.1	Management	1	10	0
2.2.9.2	Technical	2	40	0
2.2.9.3	Production	2	40	0
2.3	Ongoing Annual TCPA Effort			
2.3.1	Management of Change			
2.3.1.1	Technical	8	24	4
2.3.1.2	Production	8	16	2
2.3.2	Refresher Training			
2.3.2.1	Technical	2	8	0
2.3.2.2	Production	8	32	0
2.3.3.	Maintenance			
2.3.3.1	Technical	2	32	0
2.3.4	Compliance Audit			
2.3.4.1	Corporate	24	4	0
2.3.4.2	Management	8	8	0
2.3.4.3	Technical	24	24	0
2.3.5	Overall Management			
2.3.5.1	Management	2	40	0

Description of Representative Sources

Source A A currently regulated source with a newly regulated substance (a Group II reactive hazard substance mixture in its one currently regulated covered process used as a

previously unregulated raw material); Source A is an establishment of a large chemical manufacturer.

Source B A newly regulated source with a newly regulated substance (a Group I reactive hazard substance in one process); Source B is a small chemical manufacturing establishment.

Source C A currently regulated source with only a toxic EHS; Source C is a small industrial establishment with no newly listed EHSs.

The method for determination of representative estimates of start up and annual costs employs the approach originally developed by USEPA in their 1996 Economic Analysis Report for the 112r Clean Air Act rule which the Department used for this rule in 1998 and described in that Proposal Summary. For this economic analysis the estimates are updated to reflect program experience.

The values for start up and annual costs below are taken from Exhibit 4 and rounded to the nearest ten dollars. For example, the risk management plan preparation and submittal portion of the start up cost of Source B, one of the 40 newly regulated sources, as determined using Exhibit 4 is $1,470. That value is the sum of the products of the wage rates (Exhibit 4 line 1) and the person-hours for risk management plan elements prepared (Exhibit 4 line 2.1.1 through 2.1.5).

A representative newly regulated source, Source B, with a newly regulated reactive hazard substance is projected to experience start up and annual costs presented in Exhibit 4 as follows:

Source B (newly regulated source)

Start up costs	
-Initial risk management program cost (Exhibit 4, 2.2.1-2.2.9.3)	$14,740
-Risk management plan preparation and submittal, etc. (Exhibit 4, 2.1-2.1.5.1)	$1,470
	$16,210
Annual costs	
-On going risk management cost (Exhibit 4, 2.3.1-2.3.5.1)	$6,860
-TCPA fee (Exhibit 4-rounded)	$4,220
.	$11,080

Twenty-two of the current registrants are projected to have at least one newly regulated substance in addition to their currently regulated toxic and flammable substances. Currently, this group has 42 covered processes handling 44,103 hazard units. The census of processes and hazard unit inventory expected to be added with corresponding hazard unit inventory by category of newly regulated substance is shown in Exhibit 5 below. This group of registrants includes only industrial facilities; no water treatment facilities are projected to have newly regulated substances. Nine of these sources have newly listed EHSs in processes currently regulated for toxic or flammable EHSs already listed in Table I. As shown in Exhibit 5 below, the Department estimates that 13 additional processes and 14,824 hazard units of EHSs will become regulated under the proposal.

Exhibit 5
Current Registrants Having New Covered Processes and EHS Inventory Census

	Number of New Processes	Number of Additional Hazard Units
LPG hydrocarbons added to the list of flammable substances	1	14,484
Individual reactive hazard substances added at Part D, Group I	3	301
Reactive hazard substance mixture functional groups added to Part D, Group II	9	39
Total	13	14,824

A representative of this group of twenty two current registrants, with a currently regulated flammable EHS in the process that includes a newly regulated reactive hazard substance, is projected to experience start up and annual costs presented in Exhibit 4 as follows:

Source A (currently regulated source with newly listed EHS)

Start-up Costs

-Initial risk management program cost (Exhibit 4, 2.2.1-2.2.9.3)	$5,500
-Risk management plan preparation and submittal, etc. (Exhibit 4, 2.1-2.1.5.1)	$1,040
-Calorimeter testing (ΔH)	$2,000
	$8,540

Annual costs

-On going incremental risk management cost (Exhibit 4, 2.3.1-2.3.5.1)	$4,300
-TCPA fee (Exhibit 4-rounded)	$4,350
	$8,650

The projected FY 2005 TCPA fee of Source A is $1650 less than that paid for FY 2003, because of lower unit fee rates.

Eighty three of the current registrants are projected to have no newly regulated substances. This group of registrants includes industrial facilities and water treatment facilities. Exhibit 6 shows the census of processes and hazard unit inventory for these sources.

Exhibit 6
Current Registrants with No New Covered Processes or Regulated Substances

	Number of Sources	Number of Processes	Number of Hazard Units
Currently regulated toxic and flammable substances in industrial facilities	64	88	9,021
Currently regulated toxic and flammable substances in water treatment facilities	19	20	757.2
Total	83	105	9778.2

Since these sources have no newly listed EHSs, these registrants are projected to experience no start up costs and minor additional annual risk management program implementation costs. These minor costs will be incurred as a result of the requirement to evaluate state of the art risk reduction options as part of the process hazard analysis and other detailed reporting requirements. Their annual TCPA fees for FY 2005 will be lower than their FY 2003 fees because of the lower projected unit fees. A representative currently regulated registrant with a toxic EHS will experience the following start up and annual costs:

Source C (currently regulated source with no newly listed EHSs)

Start up costs	
-Initial risk management program cost (Exhibit 4, 2.2.1-2.2.9.3)	$450
-Risk management plan preparation (Exhibit 4, 2.1-2.1.5.1) and submittal, etc.	0
	$450
Annual costs	
-On going incremental risk management cost (Exhibit 4, 2.3.1-2.3.5.1)	$ 180
-TCPA fee (Exhibit 4-rounded)	$4,300
	$4,480

The projected FY 2005 TCPA fee for this representative source is $1,700 less than the FY 2003 fee paid resulting in a positive economic impact.

Environmental Impact

Readoption of the TCPA rules will ensure that they will continue to have a positive impact on the environment by providing regulations for the management of EHSs and assuring that processes and equipment that handle EHSs are properly designed and maintained. Regulating reactive substances under the TCPA program will have a positive effect by reducing the risk of accidental releases of these substances, which are known to have been the cause of industrial accidents. Regulating LPG gases will require owners and operators that manufacture these flammable gases or use them as feedstocks in their processes to implement comprehensive risk management programs to prevent catastrophic accidents that impact the public and the environment. The penalty provisions of the rule will act as a deterrent to those who would violate

the regulatory requirements. The requirements to evaluate state of the art risk reduction alternatives and inherently safer technologies will have a positive environmental impact by reducing the potential for accidental releases.

Federal Standards Analysis

Executive Order No. 27 (1994) and P.L.1995, c.65 requires State agencies that adopt, readopt, or amend State regulations that exceed any Federal standard or requirements to include in the rulemaking document a comparison with Federal law. This proposed readoption of the TCPA rules at N.J.A.C. 7:31 with amendments includes the requirements of the federal accidental release prevention program (ARP) program at 40 CFR 68, which were incorporated by reference into the TCPA rules in 1998. Based on its past experience in implementing a release prevention program since 1988 and the mandates of the TCPA, the Department supplemented the Federal rules with additional requirements at that time. The current TCPA rules contain requirements that are more stringent and/or broader in scope than the Federal rules at 40 CFR 68. Many of these requirements are statutory mandates from the TCPA that predate Section 112(r) of the Federal Clean Air Act Amendments of 1990 that established the Federal ARP program. Other requirements that exceed Federal standards are needed to protect the public from the threat of accidental releases of EHSs in New Jersey, which is more highly industrialized and densely populated than other states.

The TCPA rules and the Federal ARP rules currently regulate toxic and flammable substances. There are more toxic substances regulated as EHSs under New Jersey's TCPA

Accidental Release Prevention program than under the Federal program. Listed below are the toxic substances on the TCPA EHS list that are not regulated toxic substances under the Federal program. The basis for the selection criteria used for listing substances is found in the TCPA definition of extraordinarily hazardous substance (EHS). The current TCPA list is comprised of toxic substances at threshold quantities that meet the statutory definition of EHS which is any substance ". . . in sufficient quantities . . . such that its release into the environment would produce a significant likelihood that persons exposed will suffer acute health effects resulting in death or permanent disability." The selection criterion used by the Department in 1988 for including substances on the EHS list, the Substance Hazard Index (SHI), fulfills the statutory requirement to regulate substances having significant potential for lethal acute toxicity and high volatility.

The Substance Hazard Index (SHI) is a single value computed for a substance based on the following two factors combined as a ratio: equilibrium vapor concentration at 20 degrees C divided by the ATC or the lethal concentration to five percent of the exposed population (LC_5). The greater the volatility and the greater the acute toxicity (that is, the lower the acute toxicity concentration), the greater the SHI of a substance will be. The TCPA SHI criterion for selecting substances is the specific SHI value of 1,388, which reflects the equilibrium vapor concentration and ATC of 36 percent concentration solution of hydrogen chloride (hydrochloric acid). All substances regulated under TCPA are as hazardous as this substance, which in itself is highly hazardous and regulated as an EHS.

SUBSTANCES ON THE TCPA EHS LIST THAT ARE NOT ON THE USEPA TOXIC SUBSTANCES LIST

(Note: Substances with asterisks are also listed on the EPA flammable substances list.)

NAME OF EHS	CAS NUMBER	SHI
ACETALDEHYDE*	00075-07-0	6579
ALLYL CHLORIDE	00107-05-1	13384
BORON TRIBROMIDE	10294-33-4	1447
BROMINE CHLORIDE	13863-41-7	10000
BROMINE PENTAFLUORIDE	07789-30-2	45132
CARBON MONOXIDE (10% by volume or greater)	00630-08-0	1751
CARBONYL FLUORIDE	00353-50-4	27778
CHLORINE PENTAFLUORIDE	13637-63-3	175439
CHLORINE TRIFLUORIDE	07790-91-2	104167
CHLOROPICRIN	00076-06-2	6579
CHLOROPRENE	00126-99-8	1419
CYANOGEN*	00460-19-5	28571
DIAZOMETHANE	00334-88-3	100000
DICHLOROACETYLENE	07572-29-4	346260
DICHLOROSILANE*	04109-96-0	36765
DIETHYLAMINE	00109-89-7	1493
DIMETHYLAMINE*	00124-40-3	4975
ETHYL MERCAPTAN*	00075-08-1	2100
ETHYLAMINE*	00075-04-7	8157
HEXAFLUOROACETONE	00684-16-2	36364
HYDROBROMIC ACID (conc. 62% or greater)	10035-10-6	2105
HYDROGEN BROMIDE (anhydrous)	10035-10-6	20000
ISOPROPYLAMINE*	00075-31-0	8103
KETENE	00463-51-4	588235
METHACRYLALDEHYDE	00078-85-3	6316
METHYL BROMIDE	00074-83-9	38462
METHYL DICHLOROSILANE	00075-54-7	1548
METHYL FLUOROACETATE	00453-18-9	39277
METHYL FLUOROSULFATE	00421-20-5	92105
METHYL IODIDE	00074-88-4	18716
METHYL VINYL KETONE	00078-94-4	389254
METHYLAMINE*	00074-89-5	10000
NITROGEN DIOXIDE (10% by volume or greater)	10102-44-0	141398

NITROGEN TETROXIDE 10% by volume or greater)	10544-72-6	141398
NITROGEN TRIFLUORIDE	07783-54-2	5000
NITROGEN TRIOXIDE	10544-73-7	141398
OSMIUM TETROXIDE	20816-12-0	95943
OXYGEN DIFLUORIDE	07783-41-7	6666667
OZONE	10028-15-6	2083333
PENTABORANE	19624-22-7	750000
PERCHLORYL FLUORIDE	07616-94-6	25974
PHOSPHORUS TRIFLUORIDE	07783-55-3	1890
PROPYLAMINE	00107-10-8	1413
SELENIUM HEXAFLUORIDE	07783-79-1	200000
STIBINE	07803-52-3	333333
SULFUR MONOCHLORIDE	10025-67-9	1864
SULFUR PENTAFLUORIDE	05714-22-7	738158
SULFURYL FLUORIDE	02699-79-8	3311
TELLURIUM HEXAFLUORIDE	07783-80-4	1000000
TETRAFLUOROHYDRAZINE	10036-47-2	20000
THIONYL CHLORIDE	07719-09-7	73680
TRICHLOROSILANE*	10025-78-2	25155
TRIFLUOROCHLOROETHYLENE*	00079-38-9	11547
TRIMETHOXYSILANE	02487-90-3	9474
TRIMETHYLAMINE*	00075-50-3	4022
VINYL TRICHLOROSILANE	00075-94-4	1551

USEPA's criteria for selecting substances differ from TCPA's Substance Hazard Index (SHI) criterion. USEPA used two separate criteria, one representing substance toxicity, and the other volatility.

The USEPA criteria are not based on a specific substance, but are designed to limit the list to a practical number of the most hazardous substances. The USEPA criteria for selecting substances are a median lethal concentration (LC_{50}) of 2.0 grams per cubic meter (g/m^3) or lower in all but the case of chloroform and a vapor pressure of 10 torr or higher at 25 degrees C.

A total of 47 substances meet both TCPA's and USEPA's selection criteria. For example, a substance such as acrylonitrile is listed by USEPA because it has an LC_{50} of 1.27 g/m^3 and a vapor pressure of 115 torr at 25 degrees C. The SHI for acrylonitrile is 1,896 and, therefore, it is listed in the TCPA regulations.

A total of 57 substances meet the TCPA SHI criterion but not USEPA criteria. For example, boron tribromide was selected for the TCPA list because it has an SHI of 1, 447. It has sufficient vapor pressure, 55 torr, to meet the first part of the USEPA criteria, but with an LC_{50} of 5.2 g/m^3, it does not meet the second part of the USEPA criteria.

Finally, 30 substances meet USEPA criteria but not the TCPA SHI criterion. For example, carbon disulfide meets USEPA criteria with an LC_{50} of 1.0 g/m^3 and a vapor pressure of 360 torr at 25 degrees C, but its SHI of 1,236 falls just below the TCPA SHI criterion of 1388. These 30 substances are included in the Table I, Part B list because the TCPA program must regulate all Federally regulated toxic substances.

The threshold quantities assigned to the toxic EHSs were established to attain the statutory goal and were individually set by using the TCPA threshold determination method. Each threshold quantity established under this method is that quantity whose potential release over a one hour period at a point 100 meters from the property boundary would result in a death beyond the boundary. This method assumes a population density of 10,000 persons per square mile, a value chosen to reflect the average population density of New Jersey cities. The 100 meter distance between the point of potential release and the site boundary was chosen as

representative of distances to property boundaries in New Jersey. Each threshold quantity has been calculated using dispersion modeling and mortality curves that directly reflect the acute toxicity concentration (ATC) of the respective substance, and its equilibrium vapor pressure at 20 degrees C for substances that are normally liquid.

USEPA also determines threshold quantity of a substance by a method different from that used by the TCPA program. While substances regulated by both programs represent hazard to the community at specific acute toxicity concentrations, in the TCPA program each substance is assigned a unique threshold value. The TCPA program determined the threshold value as the quantity whose release would disperse as a cloud covering an area having specified population density to result in a consequence of death or permanent disability. In contrast, the USEPA method ranks substances by a toxicity/volatilization rate ratio into classes to which arbitrary threshold values have been assigned. Thus, USEPA assigns several substances with disparate characteristics to share the same threshold value.

As a result of the differences in threshold quantity determination, the TCPA threshold quantity is lower than the USEPA threshold quantity in 54 out of 58 cases where the toxic substance is listed on the existing TCPA list (Table I, Part A) and the USEPA list (Table I, Part B). There are 12 sources currently regulated under TCPA that would be unregulated if the Department adopted the Federal thresholds for toxic substances.

The Department believes the existing TCPA threshold quantity values are appropriate for New Jersey because of the number of small congested industrial sites in New Jersey handling

such substances and its high population density in areas surrounding those industrial sites, which the TCPA threshold determination method takes into account. A TCPA threshold quantity release modeled by this method would result in the potential for 15 persons to suffer from acutely toxic effects with, statistically, one fatality. By comparison, the average USEPA threshold quantity of a substance when modeled by the same TCPA threshold determination method shows the potential for 606 persons to suffer from acutely toxic effects with statistically 108 fatalities. For 33 of the 47 toxic substances listed by both TCPA and USEPA, the USEPA threshold quantity, if released, based on the same acute toxic effect criteria would potentially affect from 127 persons to as many as 11,426 persons, as compared to 15 persons potentially affected by the release of the TCPA threshold quantity of the same substance.

The TCPA toxic substances that are not also on the USEPA toxic substances list, but which meet the SHI criteria, represent hazards at least as severe as those of substances on the USEPA list. The benefits of their continued inclusion as EHSs are significant reductions of scientifically supported estimates of potential deaths or permanent disability in the communities surrounding these existing sites.

Owners and operators having EHSs regulated only under TCPA or having EHSs at lower State thresholds incur the costs of implementing a risk management program and paying annual fee assessments. The Department believes the benefits of protecting the public and the environment outweigh any incurred costs, which are described fully in the Economic Impact statement above.

Several owners or operators are subject to these rules because one or more of their processes generates, or is capable of generating, an EHS at threshold quantities over a one-hour period of time. The TCPA statute explicitly includes “generation” of extraordinarily hazardous substances as a regulated activity as well as storage and handling, while the Federal ARP program does not include generation. One group that may be affected by this if their processes are capable of generating ozone at threshold quantities is New Jersey water purveyors using ozone to disinfect potable water. Because ozone is not a Federally regulated substance, these owners and operators come under the purview of TCPA solely because ozone is a State regulated EHS generated by their processes.

There is a possibility that an owner or operator can be subject to TCPA and not be subject to the Federal ARP program because New Jersey regulates EHSs at quantities that meet or exceed the threshold quantity while Federal program applicability is based on exceeding, rather than meeting, the threshold. While the chances are small of an owner or operator having the threshold quantity of a regulated substance without exceeding it, it is possible that this difference in determining program applicability may subject an owner or operator to the TCPA rules.

As discussed above, the TCPA rules list a greater number of toxic substances as EHSs than the number of toxic substances regulated under the Federal ARP program. Also, some of the toxic substances regulated under both programs have lower State thresholds. Because of this, the TCPA program is broader in scope than the Federal program and affects more owners and operators. Owners or operators that are affected by New Jersey’s more inclusive EHS list or

lower thresholds are already regulated under TCPA and have existing approved risk management programs.

In addition, owners or operators in New Jersey may come under the purview of TCPA because of their EHS mixtures. Under the Federal program, amounts of regulated substances contained in mixtures where the concentration of the regulated substance is below one percent by weight or its partial pressure is less than 10 millimeters of mercury, need not be considered when determining whether more than a threshold quantity is present at the stationary source. TCPA requires that amounts of EHSs contained in mixtures at a concentration at or above the Acute Toxicity Concentration must be considered when determining whether more than a threshold quantity is present. In general, the Acute Toxicity Concentration of EHSs are much less than one percent. However, the stricter requirement for determining thresholds for EHSs in mixtures should have very little effect on the scope of stationary sources subject to the rules since EHSs are generally found stored at much higher concentrations. The different concentration cutoffs may affect whether equipment in a downstream process is subject to the rules.

Owners and operators regulated under TCPA but not the Federal ARP program for any of the reasons discussed above (EHS list and threshold differences, EHS generation, having an EHS at, but not above, the threshold quantity, or differences in calculating EHSs in mixtures) will be expected to continue to implement their risk management programs, and incur the costs associated with these activities as discussed in the Economic Impact statement above.

The Department will continue to regulate flammable substances at the current 10,000 pound threshold, which is the same threshold as the Federal program. By regulating LPG, the TCPA list of flammable EHSs will be the same as the Federal list of regulated flammable substances.

The listing of reactive chemicals as EHSs is the most significant new requirement being proposed as part of the amendments to the TCPA rules. This requirement is not part of the Federal ARP rules. The listing of reactive substances as EHSs, subject to the TCPA rules, is due to their identification as contributors to the cause of recent industrial accidents. The Department has determined that TCPA coverage of reactive substances is warranted to protect the public and the environment from accidental releases. Adding reactive substances to the EHS list will ensure that owners or operators handling reactive substances at quantities that meet or exceed the proposed thresholds develop and implement risk management programs to minimize the risk of an accidental release.

The Department considered the causes of past industrial accidents and weighed the projected cost of compliance against the costs to the public and the environment associated with a reactive hazard substance accident and determined that the benefit to the public derived from regulation outweighs the cost of compliance. For example, two such incidents occurred at Napp Technologies in Lodi (1995) and Morton International in Paterson (1998). These incidents were the result of reactive chemistry interactions and demonstrate the need to regulate reactive hazard substances under the State accidental release prevention program. The incident at Napp killed five workers, sent 40 residents to hospitals, generated smoke that required the evacuation of hundreds more residents, and required action by over 900 emergency response

workers from 30 municipalities and the Department. In addition to the fatalities and injuries that resulted from the accident, 110 jobs were lost as well as $20-$50 million in annual revenue from the sale of Napp's products. The Morton explosion injured nine employees, two seriously. In addition, the explosion spattered the adjacent neighborhood with a yellow-brown mixture of hazardous materials, requiring extensive remediation of the site by Morton and staff resources from the Department for clean-up supervision and monitoring.

These rules will also require owners and operators of New Jersey stationary sources to comply with additional State risk management program requirements due, in part, to the statutory mandates of the TCPA and to the experience gained by the Department in implementing its accidental release prevention program over the past 15 years.

The TCPA statute defines a risk management program as containing eight elements designed to minimize the risk of EHS accidents. The Federal ARP program, which mirrors the State TCPA program in its intent and scope, contains similar elements but lacks the detail for developing and implementing these risk management program elements.

In developing the TCPA rules, the Department evaluated the Federal rules against the current TCPA rules and found that the current State program defines, with more specificity, how to develop program elements that reach risk management goals. Wherever the Department believed a performance based, less prescriptive Federal regulatory approach would not compromise public safety, the Federal rules were incorporated by reference with no changes. This gave owners and operators the latitude to develop individual risk management programs

and maintain program documentation in accordance with company policies and procedures as long as all aspects of the eight required elements are reflected and properly documented.

There are several TCPA program elements that are more stringent than their Federal counterparts. The State requirement for the performance of a risk assessment as part of the process hazard analysis at N.J.A.C. 7:31-4.2 is one such element. Risk assessment is one of the eight risk management program elements originally mandated by the TCPA statute. The risk assessment element reflects TCPA statute requirements to anticipate circumstances that could result in environmental accidents and take the necessary steps to prevent their occurrence. Risk assessment is commonly defined as a quantitative analysis to determine risk reduction measures that should be implemented by identifying release scenarios, estimating their consequences, and calculating their likelihood. For Program 2 covered processes, there are no additional risk assessment requirements. The Department determined that since Program 2 processes are generally less complex, the information obtained from the USEPA's hazard assessment and hazard review is sufficient to comply with the TCPA mandated risk assessment requirement. However, the Department currently requires that for Program 3 covered processes an estimate of the consequences be made by performing dispersion modeling to determine whether a toxic concentration of the EHS will extend beyond the source boundary, and an estimate of the likelihood of equipment failure. The Federal rules require that only a process hazard analysis be performed, but do not specify that dispersion modeling or likelihood analysis be included. Personnel to perform the TCPA risk assessment may be supplied by the owner or operator's staff or by consultants. There is a continuing cost estimated at $240 (6 hours x 40/hr) to update the risk assessment every five years. In addition to these periodic updates, it may also

be necessary for New Jersey owners and operators to perform a process hazard analysis with risk assessment if an anticipated process or equipment change is likely to have offsite impacts.

The Department is also proposing to require a state of the art evaluation of risk reduction options for owners and operators of Program 3 covered processes as part of their process hazard analysis with risk assessment (PHA/RA). As discussed above, risk assessment is one of the eight risk management program elements mandated by the TCPA statute. An evaluation of options for risk reduction is part of the risk assessment. State of the art is defined in the context of risk reduction as current technology that is readily available at reasonable cost. Although these proposed rules require an evaluation of currently available technologies to reduce the risk of accidental releases, an owner or operator is not required to incorporate these measures if they determine the technology will not be cost effective. The Department estimates owners and operators will incur costs once every five years to research and evaluate state of the art options for risk reduction. The cost researching state of the art technologies depends on the expertise of the reviewer and the complexity of the covered process. The additional cost of a state of the art evaluation is anticipated to be under $1000 every five years. The potential benefit to the public of the use of state of the art technologies exceeds the cost of the evaluation of new technologies.

Another proposal that is more stringent than the Federal rules is the State requirement to evaluate the use of inherently safer technologies when designing and building new covered processes. The concept of inherently safer technologies incorporates risk reduction by minimizing or eliminating the threat of EHS releases by substituting less hazardous substances

or reducing the quantity of EHSs used in a process or designing the process to minimize the potential for an accidental EHS release. The federal Accidental Release Prevention program at 40 CFR 68 contains no risk reduction requirements. Designing and incorporating inherently safer technologies into a new process before it is built will lower operational costs and protects the public and the environment by minimizing the use of EHSs and limiting the potential for accidental releases.

The TCPA rules also contain additional risk management program requirements, at N.J.A.C. 7:31-3 and 4, which are described below, that are more comprehensive than the Federal program. In comparing the current TCPA rules to the Federal rules the Department determined that additional requirements are needed in order to implement the goals of State law. The cost of these additional requirements is expected to be minimal for currently regulated owners and operators since they are already complying with the requirements of the rule.

The TCPA rules supplement Federal requirements for the Program 2 and Program 3 release prevention programs. For Program 2, the Department requires the submittal of reports every three years (triennial reports) containing program information updates and describing significant program changes, EHS accidents, hazard review results, and compliance audits that occurred over the past three years (See N.J.A.C. 7:31-3.3). There is no Federal requirement for the submittal of reports for Program 2. Owners and operators of Program 3 covered processes are required to submit annual reports. These proposed rules will specify the information that must be submitted for the annual or triennial reports. The annual or triennial report is a program update and summary of certain required activities that the Department uses to prepare for and

conduct on-site audits, which will continue under the proposed rules. The minimal cost of such reporting is the cost for gathering and submitting the required information.

Owners and operators of Program 2 covered processes are currently subject to more emergency response planning than is required under the Federal program. While the Federal program allows any owner or operator whose employees will not respond to emergencies to coordinate response activities with local agencies, these proposed rules offer this option only for Program 2 covered processes and only after coordination with local agencies is documented. The Department also currently requires owners and operators of Program 2 and Program 3 covered processes, whose employees will respond to emergencies, to conduct a full scale drill annually. The Department believes regular drills are necessary to ensure the adequacy of the owner or operator's emergency response plan and that drills are effective in protecting public safety. The Federal program does not specify the frequency of full scale drills. At a source with complex Program 3 covered processes, this cost could be as high as $6,500 per drill based on two technical effort hours at $40.00 per hour and 256 production effort hours at $25.00 per hour.

The proposed rules also specify that an owner or operator of a Program 3 covered process shall conduct an internal compliance audit annually rather than every three years as required under the Federal program. See N.J.A.C. 7:31-4.1(c)13. Annual audits enable owners and operators to monitor their programs frequently and make necessary changes to ensure the risk of accidental releases is minimized. The cost of performing an audit is minimal, approximately $3,300, when compared to the benefits derived from the avoidance of an accidental release.

Owners and operators of New Jersey stationary sources will continue to comply with additional state requirements because the additional information or activity required has been beneficial to ensure public safety, to enhance the quality of risk management programs beyond what is specified in the Federal rules, or to enable the Department to adequately monitor risk management programs for covered processes. These requirements are not expected to significantly raise the cost of program implementation, but will ensure that owners and operators develop meaningful, effective risk management programs that ensure the safety of the public by reducing the risk of a catastrophe accidental EHS release.

Jobs Impact

The proposed readoption with amendments of the TCPA rules is not expected to have a significant job impact on New Jersey's regulated facilities. The cost of compliance with these rules will vary depending on the current regulatory status of the company and whether the company has any newly listed reactive hazard substances or LPG gases. As discussed in the economic impact statement, businesses having newly listed EHSs that are not currently in the program will incur higher costs of establishing risk management programs than businesses already implementing risk management programs. In some cases, an increase in the cost of compliance may result in a shift of monetary resources away from staffing in order to apply additional resources toward program compliance creating a negative jobs impact or loss of jobs. In other cases, the need to establish risk management programs may require a newly regulated

company to hire technical staff to develop and implement a risk management program resulting in a positive impact by creating more jobs.

It is difficult to assess the impact on jobs since each member of the regulated community will deal with additional costs incurred in accordance with its own goals and priorities. Because business entities may respond in different ways, depending on their circumstances, it is not possible to accurately estimate the extent, if any, to which this rulemaking would affect employment in New Jersey; therefore, the Department cannot quantify the job impacts connected with this proposal. However, based on past experience with the TCPA program, the Department anticipates that a reduction of certain job opportunities would be offset by an increase in other job opportunities created to enable owners and operators to comply with the requirements of these rules. The Department has found that job impact will not turn on TCPA related costs. Any past job loss among businesses covered under TCPA, due to relocation to another state or shutting down an EHS covered process, occurred primarily because of location economics, process economics (including pollution prevention strategies), or market factors. Since the Federal ARP program has been national since 1999 and is being implemented in all states, owners and operators of every covered process in the country are required to comply with 40 CFR 68 even if they decide to relocate from New Jersey.

The potential jobs impact for New Jersey businesses affected by these rules are as follows:

1. Owners and operators of businesses that are currently regulated under TCPA but have no newly regulated reactive hazard substances to register under the program

should experience no new job impacts**.** As explained above, the history of the TCPA program has shown that the impact of these rules on jobs is minimal and that while there may be a shift in the types of jobs available at TCPA regulated sources, there will be no significant change in the number of jobs at these businesses.

2. Owners and operators of currently regulated businesses that have newly regulated reactive substances or LPG should experience no job impacts because they should be easily able to incorporate the new EHSs into their current, approved risk management programs. It is possible that staff resources may need to be shifted from other jobs within the company to update the approved risk management programs; however the Department anticipates that there will be no net loss or gain in the number of jobs at these businesses.
3. Owners and operators that will become covered under TCPA for the first time because of a newly regulated reactive hazard substance or LPG may experience a loss of jobs due to the costs of developing risk management programs. Although this expenditure may impact some types of jobs by diverting monetary resources towards program development, there is the likelihood that jobs will be created for those charged with program development and implementation.

Because this proposal is expected to have little or no job impact on the regulated community, it is not expected to have secondary or tertiary job impacts on other New Jersey businesses that may be customers of, or suppliers to TCPA regulated sources.

In addition, no impact is expected to the number of jobs within the Department as a result of this proposal. Although the Department estimates 40 currently unregulated companies may be brought into the TCPA program, no new State positions will be created to review and approve risk management programs for these newly regulated facilities. Rather, The Department will accomplish these tasks by redistributing routine tasks within the program.

Agriculture Industry Impact

The rule proposed for readoption with amendments is not expected to impact farmers. There are currently no facilities with farming SIC codes in the 07 (Agricultural Services) Major Group regulated under the TCPA program.

Regulatory Flexibility Analysis

The TCPA program applies to owners and operators handling, manufacturing, using, storing or generating EHSs at quantities that meet or exceed threshold quantities. In order to comply with the TCPA rules, owners and operators are required to submit risk management plans reflecting programs that address the risk of accidental EHS releases. In addition to the submittal of their risk management plans to the Department for approval, owners and operators are required to keep records of equipment maintenance, EHS operator training, accidental releases, process safety information, emergency response activities, and operating procedures. Also, hazard review or hazard analysis reports are required to be sent to the

Department every five years. Reports of risk management activities are required to be submitted to the Department either annually for Program 3 covered processes or every three years for less complicated Program 2 covered processes.

The costs of compliance with the TCPA rules are discussed in the Economic Impact statement above. These costs are based on the number of covered processes at the source and the quantity of EHS inventory present. In general, the costs are proportional to the complexity of the ongoing activities and the risk presented by the quantity of EHS inventory at the source. Many businesses choose to employ the services of consultants to help manage the development and implementation of their risk management programs. Although, this option is used by both large and small businesses for varying reasons, it is more commonly used by small businesses, which may lack the staff resources to ensure that compliance with the rules is achieved.

Approximately 50% of the 104 businesses currently regulated under the TCPA rules have fewer than 100 employees and therefore meet the definition of small businesses. Many of the small businesses are water treatment facilities. The proposed rules are projected to bring 40 additional businesses into the TCPA program. Nine of these businesses use LPG gases as feedstocks or ingredients in their industrial processes and will be required to comply with these rules. Of these companies, three are considered to be small businesses. An additional 37 companies are projected to be brought into the program because they use, store, manufacture or generate newly listed reactive substances above threshold quantities. Some of these

companies may be small businesses since the companies that use reactive hazard substances are likely to produce similar products without regard to their actual size.

Fuel merchants and users of LPG fuels, many of which represent small businesses, already benefit from the exclusion from TCPA coverage of flammable LPG gases when they are held for sale or used as fuels by eliminating the expense of program compliance.

Many other small businesses may be able to take advantage of the reduced record keeping, reporting and other requirements for Program 2 covered processes. For example, owners and operators of Program 2 covered processes are required to submit triennial reports of their program activities rather than annual reports, which are required for Program 3 processes. Program 2 eligibility is dependent on the potential risk associated with the covered process rather than the size of the business and is only assigned to processes that are not in one of nine select manufacturing Standard Industrial Classification (SIC) codes or that are not regulated under OSHA PSM. Since the TCPA program applies to owners or operators of stationary sources handling, using, manufacturing, storing or generating extraordinarily hazardous substances (EHSs) at threshold quantities or greater, the potential exists for catastrophic accidental EHS releases, regardless of the size of the business. Further reducing the requirements for small businesses would present potential risks to public safety and the environment and are not warranted at this time.

Smart Growth Impact Statement

In accordance with Executive Order 4, signed by Governor James McGreevey on January 31,2002, the Department reviewed the proposed TCPA rule and proposed amendments and determined that these rules will have no impact on the achievement of smart growth and the implementation of the State plan.

Full Text of the proposed readoption with amendments follows (additions indicated underlined in boldface **thus**; deletions indicated in brackets [thus]):

Subchapter 1 General Provisions

7:31-1.1 Incorporation by reference

(a)-(b) (No change.)

(c)1 (No change.)

(c)2i-iii (No change.)

(c)2iv At the definition of "regulated substance," delete "any substance listed pursuant to section 112(r)(3) of the Clean Air Act as amended, in § 68.130.", and replace with, "an EHS listed in Table I, Parts A, B, [and] C**, or D** of N.J.A.C.7:31-6.3**(a)and(c)**.

(c)3i (No change.)

(c)3ii At 40 CFR 68.10(a)1, delete [the semicolon after "June 21, 1999"] **June 21, 1999** and add the following, "**September 30, 2004,** for covered processes with EHSs listed in N.J.A.C.

7:31-6.3 in Table [1]**I**, Part [B or Part C] **D or LPG gases listed in Part C.** For covered processes with EHSs listed in N.J.A.C. 7:31-6.3 Table [1] **I** Part A, **B, or C (except for LPG gases listed in Part C),** the obligation to comply with this chapter [begins on the **operative date of these rules,** June 18, [1998] ; however, the schedule for] **shall continue and the obligation to revise an owner or operator's** risk management program [implementation] shall be in accordance with **the schedule set forth in** N.J.A.C. 7:31-7.5."

(c)3iii-vi (No change.)

(c)4i (No change.)

(c)4ii(1)-(2) (No change.)

(c)4ii(3) At 40 CFR 68.12(c)(2), delete the semicolon at the end of the sentence and add ", with changes specified at N.J.A.C. 7:31-2.1(c)1 and 2 **and N.J.A.C. 7:31-2.2."**

(c)4ii(4) At 40 CFR 68.12(c)(3), insert the phrase "with changes specified at N.J.A.C. 7:31-3.1(c)1-[8] **10** and N.J.A.C. 7:31-3.2 through [3.4]- **3.5"**after "68.60, " and delete the semicolon at the end of the sentence and add "with changes specified at N.J.A.C. 7:31-4.1(c)1-[22] **23** and N.J.A.C. 7:31-4.2 through 4.11**.**

(c)4iii (1)-(3) (No change.)

(c)4iii (4) At 40 CFR 68.12(d)(3), delete the semi-colon and add "with changes specified at N.J.A.C. 7:31-4.1(c)1-[22] **24** and N.J.A.C. 7:31-4.2 through 4.[11] **12**.

(c)4iii(5) (No change.)

7:31-1.5 State definitions

…

"Functional group" means a group of chemical compounds that have similar structural and/or molecular features which impart similar physical characteristics to the compounds in that group.

…

"Heat of reaction" or "ΔH" means the change in the amount of heat energy of the substances contained in a process vessel that occurs during a chemical reaction expressed as calories per gram. The heat of reaction includes the heat of decomposition, heat of explosion or heat of combustion depending on the chemical reaction(s) taking place.

"Industrial complex" means the overall property of at least two contiguous TCPA regulated stationary sources which meet the following criteria: (1) owners and operators of each source provide the hazard review, process hazard analyses with risk assessment and accident or potential catastrophe event investigation reports to the qualified person or the assigned designee of each of the other stationary sources; (2) employees of each of the individual sources have access to these reports and all information required to be developed under this rule; (3) the owners or operators of each source have implemented

security measures to restrict uncontrolled public access to the entire property; and (4) there is a previous history of ownership of the complex, now occupied by the individual regulated stationary sources, by one company.

"Inherently safer technology" means the design of a new covered process to minimize or eliminate the potential for an EHS accident by utilizing techniques that include, but are not limited to, the following: 1) reducing the amount of EHS material that potentially may be released; 2) substituting less hazardous materials; 3) using EHSs in the least hazardous process conditions or form; and 4) designing equipment and processes to minimize the potential for equipment failure and human error.

…

"Material deficiency" means [the failure of] an **inadequacy or omission of** an owner's or operator's risk management program **that reduces the effectiveness of the risk management program** [to meet each of the requirements of N.J.A.C. 7:31-3 or 4].

"Rate of energy release" means the amount of heat energy released in a specified unit of time during a chemical reaction involving an EHS.

"Reactive Hazard Substance" or "RHS" means an EHS that is a substance, or combination of substances, which is capable of producing toxic or flammable EHSs or undergoing unintentional chemical transformations producing energy and causing an extraordinarily hazardous accident risk. RHSs are identified at N.J.A.C. 7:31-6.3(a), Table I, Part D, Group I (List of Individual Reactive Hazard Substances).

"Reactive Hazard Substance (RHS) Mixture" means an EHS that is a combination of substances intentionally mixed in a process vessel and is capable of undergoing a chemical reaction which produces toxic or flammable EHSs or energy. The negative value of the heat of reaction of an RHS Mixture is greater than or equal to 100 calories per gram of RHS Mixture. RHS Mixtures include a reactant, product, or byproduct that is a chemical substance or a mixture of substances having one or more of the chemical functional groups specified in Table I, Part D, Group II.

"Risk management program" means the sum total of programs for the purpose of minimizing extraordinarily hazardous accident risks, including, but not limited to, requirements for safety review of design for new and existing equipment, requirements for standard operating procedures, requirements for preventive maintenance programs, requirements for operator training and accident investigation procedures, requirements for risk assessment for specific pieces of equipment or operating alternatives, requirements for emergency response planning, and internal or external audit procedures to ensure programs are being executed as planned. **Risk management program includes all activities performed and documents prepared pursuant to 40 CFR 68.12(c) and (d) as incorporated by reference at N.J.A.C. 7 31-1.1(c).**

…

"State of the art" means current technology that, when applied to an owner or operator's EHS equipment and procedures will result in a significant reduction of risk. The technology represents an advancement in reduction of risk and shall have been demonstrated at a similar referenced facility to be reliable in commercial operation or in a

pilot operation on a scale large enough to be translated into commercial operation. The technology shall be in the public domain or otherwise available at reasonable cost commensurate with the reduction of risk achieved.

7:31-1.11 **Reserved** [Fees (effective until June 21, 1999)]

[(a) Each registrant or owner or operator of a site required to register pursuant to N.J.A.C. 7:31-7.1 shall pay an annual fee to the Department. The annual fee shall be computed in accordance with (b), (c) and (i) through (m) below, and billed and remitted in accordance with (f) through (h) below.

(b) The Department shall assess annual fees that include a base fee, a facility derived fee, and an inventory derived fee. The base fee unit rate and the facility derived fee unit rate shall be calculated using the data from the TCPA database as of October 1 of the current year.

(c) The Department shall annually determine during the month of December the base fee and the facility derived fee unit rates, taking the steps in (c)1 through 8 below. The Department shall:

1. Establish the spending plan by projecting the amount of money required to fund the TCPA program during the fiscal year in which registrants shall be charged fees based on the following data:

i. The Cost of Department staff in all positions of the TCPA program for which fees are charged for the current year;

ii. The cost of fringe benefits for those staff members identified at (c)1i above, calculated as a percentage of their salaries, which percentage is set by the New Jersey Department of the Treasury based upon costs associated with pensions, health benefits, workers' compensation, disability benefits, unused sick leave, and the employer's share of FICA;

iii. Indirect costs attributable to those staff members identified at (c)1i above. "Indirect costs" means costs incurred for a common or joint purpose, benefiting more than one cost objective and not readily assignable to the cost objective specifically benefited without effort disproportionate to the results achieved. Indirect costs shall be calculated at the rate negotiated annually between the Department and the United States Environmental Protection Agency, multiplied by the total of salaries and fringe benefits:

iv. The estimated TCPA program operating expenses; and

v. The budgeted annual cost of legal services rendered by the Department of Law and Public Safety, Division of Law, in connection with the TCPA program;

2. Subtract a positive difference or add a negative difference of the "budget-expenditure variance" of the spending plan for the TCPA program of prior fiscal year, determined by the Department as of October 1 of the current fiscal year, from the amount of money required to fund the TCPA program determined in (c)1 above to determine the net money required;

3. Project the total amount to be contributed by the inventory derived fee to the aggregate fee of each registrant. This projection shall be on the following data and steps:

i. Determine the sum of hazard units at all sites or systems registered as of October 1 of the current fiscal year; and

ii. Multiply the sum of hazard units by the inventory derived fee unit rate specified at (l)3 below;

4. Subtract the contribution of the inventory derived fee determined in (c)3 above from the net money required as determined in (c)2 above to determine the sum of base fee plus facility derived fee contribution needed;

5. Determine the facility derived fee contribution based on the following data and steps:

i. Determine the number of facilities in EHS service registered as of October 1 of the current fiscal year; and

ii. Calculate the facility derived fee rate which equals the sum of salaries plus fringe of the Risk Assessment Section staff plus the percent of the TCPA program operating expenses assigned to that staff divided by the number of facilities;

6. Subtract the contribution of the facility derived fee determined in (c)5ii above from the remainder from (c)4 above to determine the base fee contribution needed;

7. Determine the base fee unit rate by dividing the base fee contribution needed from (c)6 above by the total number of registrants; and
8. Each year, the Department shall prepare an Annual TCPA Fee Schedule Report. During the month of December, the Department shall publish a summary including the fee schedule in the New Jersey Register setting forth the adjusted facility-derived and base fee unit rates and the operative date thereof. The notice shall state that the report is available, and shall direct interested persons to contact the Department for a copy of the report. The Department shall provide a copy of the report to each person requesting a copy.

(d) Each owner or operator of a new EHS facility at a site with no EHSs registered who registers an extraordinarily hazardous substance with the Department shall submit the annual fee for that calendar year computed in accordance with the bill received from the Department.

(e) Each registrant registering a new EHS facility or increasing the EHS inventory or both at a site with previously registered EHSs shall submit the inventory derived fee for the incremental EHS inventory, computed in accordance with (i), (l) and (m) below, in accordance with the bill received from the Department.

(f) The annual fees are assessed on the basis of the calendar year and shall not be prorated or refunded.

(g) Except for the fees submitted pursuant to (d) and (e) above, the Department, during the month of January, will send each registrant a bill stating the fee for that calendar year.

1. This bill shall include the base fee and additional fees calculated based on data from the registrant's registration form on file with the Department as of the previous October 1 – the number of facilities reported in Section E, or determined by the Department, and the inventory reported in Section D.

(h) Each registrant shall pay its fee by check or money order, payable to "Treasurer, State of New Jersey" prior to February 28 of the year in which it is billed. Any registrant which has not paid its annual fee by the due date will be assessed a 25 percent late fee. The check or money order shall be submitted in accordance with the remittance information contained on the bill.

(i) For the purpose of calculating fees, "inventory" as used in (j), (k), (l) and

(ii) (m) below means the maximum quantity for each EHS reported by the registrant on Section D of the registration form it submitted to the Department as part of its initial registration and its subsequent annual report in compliance with N.J.A.C. 7:31-7.1 4.9 and 3.3.

(j) Each owner or operator of a registered water treatment system or a registered wastewater treatment system or both shall pay annually for those systems a base fee plus a facility derived fee for one facility plus an EHS inventory derived fee.

(k) (Reserved)

(l) The inventory derived fee at each site, water treatment system and wastewater treatment system is determined in the following manner;

1. The inventory of each EHS is divided by the registration quantity for that EHS as set forth in Table I in N.J.A.C. 7:31-6.3;
2. The number resulting from the division required by (l)1 above is the number of hazardous units for that EHS.

3. The number of hazard units for each EHS is multiplied by $10.00 per hazard unit to determine the fee for each EHS.

(m) The annual fee for each registrant shall be the sum of the base fee and the sum of the facility derived fee for each facility and the sum of EHS inventory derived fee except as provided at (j) above; and (n) and (o) below.

(n) The annual fee for each registrant that does not have to comply with N.J.A.C. 7:31-3 for the site, subsequent to the granting of an exemption pursuant to N.J.A.C. 7:31-2.19, shall be 25 percent of the regular base fee.

(o) The annual fee for each registrant who has temporarily discontinued use, handling, storage or generation of the particular EHS at the site and has signed a consent agreement or consent agreement addendum pursuant to N.J.A.C. 7:31-4.10 shall be 25 percent of the base fee.

(p) An owner who has leased portions of a site to one or more than one facility operator shall pay an annual fee separately or jointly with the facility operator(s) or, alternatively, the operator(s) shall pay an annual fee. The fee shall be the sum of the base fee for the site and the facility derived fee for each facility and the sum of each EHS inventory derived fee for each facility except for (n) above.

(q) Each registrant submitting a confidentiality claim substantiation form in accordance with N.J.A.C. 7:31-10.5(d) shall submit a fee of $350.00 for the review of its claim at the time it submits the claim substantiation form. The fee shall be paid in the manner specified and be sent to the address indicated on the bill.

(r) Each registrant submitting a petition to withhold privileged trade secret or security information in accordance with N.J.A.C. 7:31-10.6 shall submit a fee of $350.00 for the review of its petition at the time of submitting the petition substantiation form. The fee shall be paid in the manner specified and be sent to the address indicated on the bill.

(s) Any fee under this chapter that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

(t) For the purposes of this section, the following definitions shall apply:

“Facility” means a building, equipment, and contiguous area covered by a process flow diagram and standard operating procedures, and under common area management. EHSs in a contiguous process flow under common area management shall be viewed as

in a single facility. EHSs in a noncontiguous process flow shall be viewed as in separate facilities. Facility shall not include a research and development laboratory, which means a specially designated area used primarily for research, development, and testing activity, and not primarily involved in the production of goods for commercial sale, in which extraordinarily hazardous substances are used by or under the supervision of a technically qualified person.

"Registrant" means an owner or operator of a site who has registered one or more facilities in EHS service at that site with the Department pursuant to the Act or this chapter.

"Site" means the entire plot of contiguous land upon which the registrant operates or locates one or more facilities.

"Wastewater treatment system" means any structure or structures by means of which domestic, or combined domestic and industrial liquid wastes or sewage are subjected to any process in order to remove or so alter constituents as to render the wastes less offensive or dangerous to public health, safety, welfare, comfort, property or environment of the State or any inhabitants of the State before discharge of the resulting effluent either directly or indirectly into any waters of the State. Such term includes: any collection, treatment, storage, pumping and discharge facilities under control of the operator of such system and used primarily in connection with such system.

"Water treatment system" means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. Such term includes any collection, treatment, storage, pumping or distribution facilities under control of the operator of such system and used primarily in connection with such system.

(u) Subsections (a) through (t) above shall be effective until June 21, 1999. On and after June 21, 1999, fees assessed pursuant to this chapter shall be calculated in accordance with the provisions of N.J.A.C. 7:31-1.11A.]

1.11A Fees [effective on June 21, 1999]

(a)-(b) (No change.)

(c) The Department shall annually determine during the month of [December] **October** the base fee and the covered process fee and the inventory derived fee unit rates, taking the following steps:

1-6 (No change.)

(d)-(f) (No change.)

(g) Except for the fees submitted pursuant to (d) and (e) above, the Department, during the month of January, will send each owner or operator a bill for each stationary source stating the fee for that calendar year.

1. This bill shall include the base fee and fees calculated using inventory and covered process data from the owner or operator's [registration form] **Risk Management Plan** on file with the Department as of the previous October 1.

(h) (No change.)

(i) For the purpose of calculating fees, "inventory" as used in this section means the maximum quantity for each EHS reported by the owner or operator of a covered process on the [registration form] **Risk Management Plan** submitted to the Department in accordance with N.J.A.C. 7:31-7.

(j)-(o) (No change.)

(p) The annual fee for an owner or operator who [obtained or] has **obtained a** [temporarily] **temporary** discontinuance in accordance with N.J.A.C. 7:31-4.10 for one or more EHSs, but has retained other [registered] EHSs at the stationary source **that are registered in the most current Risk Management Plan in amounts that meet or exceed threshold quantities** shall be the full base fee and the covered process and inventory fees for the registered EHSs.

(q) Each owner or operator submitting a confidentiality claim substantiation form in accordance with N.J.A.C. 7:31-10.5(d) shall submit a fee of $350.00 for the review of his or her petition at the time of submitting the petition substantiation form. The fee shall be [paid in the manner specified and be sent to the address indicated in N.J.A.C. 7:31-1.11(h).] **submitted in accordance with the remittance information contained on the bill.**

(r) Each owner or operator submitting a petition to withhold privileged trade secret or security information in accordance with N.J.A.C. 7:31-10.6 shall submit a fee of $350.00 for the review of his or her petition at the time of submitting the petition substantiation form. The fee shall be [paid in the manner specified and be sent to the address indicated in N.J.A.C. 7:31-1.11(h).] **submitted in accordance with the remittance information contained on the bill.**

(s) (No change.)

Subchapter 2 Hazard Assessment

7:31-2.2 Reactive Hazard Substance (RHS) Hazard Assessment

(a) The owner or operator of a covered process in which an RHS or RHS Mixture is used, handled, stored or generated shall perform and document a hazard assessment for the RHS in accordance with 40 CFR 68 Subpart B as incorporated by reference with changes at N.J.A.C. 7:31-2.1(c)1 and 2 and N.J.A.C. 7:31-2.2. As part of this hazard assessment:

1. The owner or operator shall consider the explosive/flammability hazard of the RHS.

2. For stationary sources that have multiple RHSs or RHS Mixtures in covered process(es), the owner or operator shall report in the RMP the one worst-case release scenario that is estimated to create the greatest distance in any direction to the endpoint. The owner or operator shall report in the RMP additional worst-case release scenarios if a worst-case release from another covered process at the stationary source potentially affects public receptors different from those potentially affected by the worst-case scenario with the greatest endpoint distance.

3. The owner or operator shall identify, analyze, and report at least one alternative release scenario to represent all RHSs or RHS Mixtures held in covered processes.

4. The owner or operator shall report in the RMP the RHS hazard assessment results in the RMP Offsite Consequence Analysis sections for flammable substances.

(b) The owner or operator shall use the following parameters and methods for the RHS hazard assessment:

1. Endpoint parameters: the endpoints for flammables listed at 40 CFR 68.22(a)(2); and.

2. Worst case release quantity: the greatest amount contained in a single vessel, not taking into account administrative controls that limit the maximum quantity.

3. A TNT-equivalent explosion method or any commercially or publicly available explosion modeling techniques, provided the techniques account for the modeling conditions and are recognized by industry as applicable as part of current practices. Proprietary models that account for the modeling conditions may be used provided the owner or operator allows the implementing agency access to the model and describes model features and differences from publicly available models upon request. When using a TNT-equivalent explosion method, the owner or operator shall use the following parameters:

i. The heat of combustion of the RHS or RHS Mixture;

ii. 100% yield factor for an RHS Mixture in a process vessel;

iii. 28% yield factor for a Table I, Part D, Group I RHS in a storage vessel.

4. All other parameters and calculation methods specified at 40 CFR 68 Subpart B as incorporated with changes at N.J.A.C. 7:31-2.1(c)1 and 2.

(c) An owner or operator having an RHS Mixture containing one or more toxic or flammable EHS(s) listed in N.J.A.C. 7:31-6.3(a) Table I, Parts A, B, or C in a process above the threshold quantity who registered only the toxic or flammable EHS pursuant to N.J.A.C. 7:31-7.2(a)3iv shall be exempt from the requirement of this section to perform an additional hazard assessment for the RHS Mixture.

Subchapter 3 Minimum Requirements for a Program 2 TCPA Risk Management Program

N.J.A.C. 7:31-3.1 Incorporation by reference

(a)-(b) (No change.)

(c)1 40 CFR 68.48(a), Safety information, at the end add the following:

i. [Simplified] process flow diagrams and [simplified] piping and instrumentation diagrams.

ii Reactivity data applicable to the process in which an EHS is being used, handled, stored or generated that includes the following:

(1) Flash point up to 200°F (and method used), flammable limits (lower explosive limit and upper explosive limit), extinguishing media, special fire fighting procedures, and unusual fire and explosion hazards;

(2) Thermal and chemical stability information: stability (unstable or stable), conditions to avoid for instability, incompatibility (materials to avoid), hazardous decomposition (products or byproducts), hazardous polymerization (may occur or will not occur), and conditions to avoid for polymerization;

(3) Thermodynamic and reaction kinetic data including: heat of reaction, temperature at which instability (uncontrolled reaction, decomposition, and/or polymerization) initiates, and rate of energy release;

(4) Incidental formation of byproducts that are reactive and unstable; and

(5) Information showing the identity and amount of toxic or flammable EHSs capable of being generated for individual RHSs listed at N.J.A.C. 7:31-6.3(a) Table I, Part D, Group I due to inadvertent mixing with incompatible substances, decomposition, and self-reaction.

(c)2 (No change.)

3. 40 CFR 68.52, Operating procedures, beginning of heading, add the word "Standard." **Also, at 40 CFR 68.52(a) add after the first sentence "Operating procedures shall be written in English in a manner that the EHS operators of the process can understand. If the EHS operators do not understand English, the operating procedures shall be written in a language the operators can understand."**

4. (No change.)

5. 40 CFR 68.58(a), Compliance audits, after the first sentence, add, "Also, the owner or operator shall verify that the process technology and equipment, as built and operated, are in accordance with the **safety information prepared pursuant to** 40 CFR 68.48(a) and (b) **as incorporated at N.J.A.C. 7:31-3.1(c)1.**

6.-8. (No change.)

9. At 40 CFR 68.50(c), Hazard review, add after "document", "in a hazard review report prepared in accordance with N.J.A.C. 7:31-3.5."

10. 40 CFR 68.58(d), Compliance audits, after the first sentence add, "The owner or operator shall prepare and include in the report a written schedule for implementation of corrective actions or state that such actions have been completed."

N.J.A.C. 7:31-3.3 Triennial reports

(a) (No change.)

(b) The triennial report shall contain:

1. An update, if applicable, of the supplemental TCPA program information as specified in N.J.A.C. 7:31-7.2(a); **if this supplemental information was not previously reported in a revised Risk Management Plan submittal. If there were no changes in the supplemental information since the last Risk Management Plan submittal, the owner or operator shall state this in the triennial report.**;

2. A description of significant changes to the management system; **if there were no changes in the management system since the last triennial report, the owner or operator shall state this in the triennial report**;

3. [Documentation of the hazard review results as specified at 40 CFR 68.50(c)] **The hazard review report required at N.J.A.C. 7:31-3.5** for each hazard review completed during the previous three years. **If there were no hazard review reports completed since the last triennial report, the owner or operator shall state this in the triennial report**;

4. A summary of EHS accidents that occurred during the previous three years**. If no EHS accidents occurred since the last triennial report, the owner or operator shall state this in the annual report. The summary of EHS accidents shall include:** [that includes a brief description of each EHS accident and the basic and contributory causes**;** and]

   i. The EHS involved and amount released if these facts can be reasonably determined based on the information obtained through the investigation;

   ii. The date and time of the EHS accident and identification of the EHS equipment involved; and

   iii. The basic and contributory causes;

5. The compliance audit report **and documentation** for the previous three years ending on the anniversary date prepared pursuant to **40 CFR 68.58(c) and (d) incorporated with changes at** N.J.A.C. 7:31-3.1(c)6 **and 10**.

[(c). The first triennial report shall be submitted no later than September 21, 2002.]

N.J.A.C. 7:31-3.5 Hazard review report

(a) The owner or operator shall prepare a hazard review report which includes:

1. **Identification of the covered process;**
2. **The date the hazard review was preformed;**
3. **The date of the completed hazard review report;**
4. **The names and affiliation of the hazard review participants;**
5. **Documentation of the hazards associated with the process and regulated substances;**
6. **Documentation of the opportunities for equipment malfunctions or human errors that could cause an accidental release;**
7. **Documentation of the safeguards used or needed to control the hazards or prevent equipment malfunction or human error;**
8. **Documentation of any steps used or needed to detect or monitor releases; and**
9. **Documentation on the implementation of recommended corrective actions that includes a schedule for implementations and resolution and the status for completing the corrective actions.**

(a) The owner or operator shall retain all hazard review reports and documentation for the life of the covered process.

Subchapter 4 – Minimum Requirements For A Program 3 TCPA Risk Management Program

7:31-4.1 Incorporation by reference

(a)-(b) (No change.)

(c)1-7 (No change.)

8. 40 CFR 68.69, Operating procedures, in the heading, add "Standard" before "operating procedures." **Also, at 40 CFR 68.69(a), Operating Procedures, at the end of the sentence replace "the following elements" with the elements listed at 1-4 below." Add after the first sentence, "Operating procedures shall be written in English in a manner that the EHS operators of the process can understand. If the EHS operators do not understand English, the operating procedures shall be written in the language that the operators can understand."**

9-12 (No change.)

13. 40 CFR 68.79(a), Compliance audits, delete "every three years" and replace with "every year." Add**, at the end of the sentence**, "Also, the owner or operator shall verify that the

process technology and equipment, as built and operated, are in accordance with **the process safety information prepared pursuant to** [with] 40 CFR 68.65(c) and (d) **as incorporated with changes at N.J.A.C. 7:31-4.1(c) 1 through 4**."

14-22 (No change.)

23. 40 CFR 68.79(d), Compliance Audits, at the end add the sentence, "The owner or operator shall prepare and include in the report a written schedule for the implementation of corrective actions or state that such actions have been completed."

24. 40 CFR 68.65(b)(4) after "Reactivity data" add "applicable to the process in which an EHS is being used, handled, stored or generated that includes the following:

i. Flash point up to 200°F (and method used), flammable limits (lower explosive limit and upper explosive limit), extinguishing media, special fire fighting procedures, and unusual fire and explosion hazards;

ii. Thermodynamic and reaction kinetic data including: heat of reaction, temperature at which instability (uncontrolled reaction, decomposition, and/or polymerization) initiates, and rate of energy release data; and

iii. Data regarding any incidental formation of byproducts that are reactive and unstable.

25. 40 CFR 68.65(b)(6) After "Thermal and chemical stability data" add "applicable to the process in which an EHS is being used, handled, stored, or generated: stability (unstable or stable), conditions to avoid for instability, incompatibility (materials to avoid), hazardous decomposition (products or byproducts), hazardous polymerization (may occur or will not occur), and conditions to avoid for polymerization;"

26. 40 CFR 68.65(b)(7) After "Hazardous effects of inadvertent mixing of different materials that could foreseeably occur" add "which includes the explosive/flammable effects and information showing the identity of toxic or flammable EHSs capable of being generated for individual RHSs listed at N.J.A.C. 7:31-6.3(a) Table I, Part D, Group I due to inadvertent mixing with incompatible substances, decomposition, and self-reaction."

7:31-4.2 Process hazard analysis with risk assessment for specific pieces of EHS equipment or operating alternatives.

(a) (No change.)

(b) The owner or operator of a covered process shall perform a process hazard analysis with risk assessment which shall include the following:

1. Identification of EHS equipment subject to the assessment, the points of possible EHS release, the corresponding approximate quantity of an instantaneous EHS release or the rate(s) and duration of a continuing EHS release, either steady or non-steady state, and the corresponding cause of the EHS release. Estimates of the quantity or rate and duration of a release shall be based on actual release mechanisms and shall reflect the operating procedures**, safeguards,** and mitigation equipment and procedures, planned for new or modified covered processes, or in place for existing covered processes.

2. Consideration of [both] toxicity**,** [and] flammability **and reactivity** for EHSs which appear in N.J.A.C. 7:31-6.3(a) Table I, Parts A and/or B as a toxic substance**,** [and] Part C as a flammable substance**, and/or Part D as an RHS or RHS Mixture**. **The owner or operator shall consider both the explosive/flammabilty hazard and the capability to generate a toxic EHS, as applicable to the RHS or RHS Mixture and process in which it is handled.**

3. Identification of all scenarios **of toxic, flammable, and reactive hazards** that have a potential offsite impact for the endpoint criteria at (b)3iii and iv below using a consequence analysis consisting of dispersion analysis, thermal analysis or overpressure analysis. The following parameters shall be used for the consequence analysis:

i.-ii. (No change.)

iii. **As applicable to the scenario being analyzed,** [T]**t**he endpoint criteria of 10 times the toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2; 1750 thermal dose units (equivalent

to 17 kW/m^2 for 40 seconds); [18.5] **5** psi overpressure; or the lower flammability limit. As an alternative to using the 10 times toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2, the value of five times the Acute Toxicity Concentration (ATC) may be used for toxic release scenarios; and

iv. **As applicable to the scenario being analyzed**, [T]**t**he endpoint criteria of five times the toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2; 1200 thermal dose units (equivalent to 15 kW/m^2 for 40 seconds); or [14.5] **2.3** psi overpressure. As an alternative to using the five times toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2, the value of the ATC may be used for toxic release scenarios.

(c) The owner or operator shall identify [risk reduction measures which significantly reduce the frequency or consequences for the potential offsite release scenarios identified pursuant to (b)3iii and iv above. As an option, the owner or operator may determine the release frequency for the release scenarios identified pursuant to (b)3iv above, and risk reduction measures are not required to be identified for those scenarios which have a release frequency less than 10^{-4} per year.] **all release scenarios that have an offsite impact of the endpoint criteria specified at N.J.A.C. 7:31-4.2(b) 3iii and iv.**

1. For each release scenario that has an offsite impact of the endpoint criteria specified at N.J.A.C. 7:31-4.2(b)3iii, the owner or operator shall perform an evaluation of

state of the art, including alternative processes, procedures or equipment which would reduce the likelihood or consequences of an EHS release;

2. For each release scenario that has an offsite impact of the endpoint criteria specified at N.J.A.C. 7:31-4.2(b)3iv, the owner or operator shall:

i. Perform an evaluation of state of the art, including alternative processes, procedures or equipment which would reduce the likelihood or consequences of an EHS release; or

ii. Determine the likelihood of release occurrence. If the likelihood of release occurrence is greater than or equal to 10^{-4} per year, the owner or operator shall perform an evaluation of state of the art, including alternative processes, procedures or equipment which would reduce the likelihood or consequences of an EHS release. If the frequency of release occurrence is less that 10^{-4} per year, no further assessment is required.

3. The owner or operator shall develop a risk reduction plan for the release scenarios requiring state of the art evaluation determined pursuant to (c)1 and 2. The owner or operator shall utilize state of the art risk reduction measures that will reduce the likelihood or consequence of the release.

(d) The following documentation from the process hazard analysis with risk assessment shall be maintained:

1. Table(s) of the process hazard analysis results giving the release point and corresponding release scenario of the potential basic (initiating) and intermediate event sequences, the corresponding estimated quantity or rate and duration of releases, and the recommended resolution action **based upon 40 CFR 68.67(e);**

2i-iii (No change.)

iv. The release [frequency] **likelihood** determined pursuant to (c)2**ii** above, if applicable.

3. (No change.)

4. An explanation why any risk reduction measures identified in (c) **and (d)1** [above] **have not been included in the risk reduction plan.**

5. A statement of completion for each risk reduction measure in the risk reduction plan or an explanation of any changes made for each measure in the risk reduction plan.

(e) 1-2 (No change.)

3. [A] **The** risk reduction plan [for each scenario identified in] **developed pursuant to** (c)**3 and (d)1** above.

(f) The owner or operator of a stationary source that is part of an industrial complex as defined at N.J.A.C. 7:31-1.5 shall use either the property boundary of the industrial complex or the property boundary for the individual stationary source for the purpose of identifying release scenarios with offisite impact.

(g) The owner or operator shall evaluate inherently safer technology for new covered processes in addition to performing the state of the art evaluation pursuant to N.J.A.C. 7:31-4.2(c)1, 2i, and 2ii. The owner or operator shall document recommendations from the inherently safer technology evaluation in accordance with N.J.A.C. 7:31-4.2(c), (d) and (e).

7:31-4.3 Standard operating procedures

(a) (No change.)

(b) 1-4 (No change.)

5i-ii (No change.)

i. During storage not requiring refrigeration, circulation, agitation or inert gas blanketing, if the Department determines that EHS monitoring equipment is provided with alarms reporting to a continuously attended station**, or a risk assessment performed pursuant to N.J.AC. 7:31-4.2 demonstrates that an EHS operator is not necessary onsite during the specified activity.**

iv Notwithstanding any other applicable state and/or federal requirements, during mechanical refrigeration using anhydrous ammonia within a closed loop system, if the Department determines that anhydrous ammonia detection monitoring equipment is capable of automatically isolating, shutting down, and emptying EHS equipment and is provided with alarms reporting to a continuously attended station whose personnel are trained to take action to prevent an EHS accident.

ii. (No change.)

7:31-4.5 Mechanical integrity/preventive maintenance program

(a) (No change.)

(b) The owner or operator shall implement a system for maintaining accurate records of all inspections, breakdowns, repairs and replacements of EHS equipment with the means

of data retrieval and analysis [for the primary purpose of determining] **to determine** the frequency of inspections and tests **and to evaluate equipment reliability**.

7:31-4.6 Management of change

(a) (No change.)

(b) If any change in the covered process or procedures results in an increase in rate, duration or quantity, or release frequency, the associated release scenarios and changes in rate, duration [or] **and** quantity shall be identified. The associated release scenarios shall be analyzed in accordance with the parameters and methods required at N.J.A.C. 7:31-4.2 to determine whether a criterion endpoint defined at N.J.A.C. 7:31-4.2(b)3iv extends beyond the stationary source boundary.

(c)-(d) (No change.)

7:31-4.8 Emergency response

(a) Owners and operators of Program 3 covered processes are subject to the emergency response provisions of N.J.A.C. 7:31-5[.1].

7:31-4.9 Annual Reports

(a) (No change.)

(b) The annual report shall contain:

1. An update, if applicable, of the supplemental TCPA program information as specified in N.J.A.C. 7:31-7.2(a)2 **if this supplemental information was not previously reported in a revised Risk Management Plan submittal. If there were no changes in the supplemental information since the last Risk Management Plan submittal, the owner or operator shall state this in the annual report;**

2. A description of significant changes to the management system. **If there were no changes in the management system since the last annual report, the owner or operator shall state this in the annual report;**

3. A process hazard analysis with risk assessment report prepared pursuant to N.J.A.C. 7:31-4.2(e) for each process hazard analysis with risk assessment completed during the previous year. For those risk assessment reports prepared pursuant to N.J.A.C. 7:31-4.6(c), a list of the reports may be substituted instead of the reports[;]**. If no process hazard analysis with risk assessment reports were completed since the last annual report, the owner or operator shall state this in the annual report.**

4. A summary of EHS accidents that occurred during the previous year. **If no EHS accidents occurred since the last annual report, the owner or operator shall state this in the annual report. The summary of EHS accidents shall include:** [that includes a brief description of each EHS accident and the basic and contributory causes; and]

i. The EHS involved and amount released if these facts can be reasonably determined based on the information obtained through the investigation;

ii. The date and time of the EHS accident and identification of the EHS equipment involved; and

iii. The basic and contributory causes.

5. The compliance audit report **and documentation,** for the year ending on the anniversary date**,** prepared pursuant to 40 CFR 68.79(c) **and (d)** with changes specified at N.J.A.C. 7:31-4.1(c)14 **and 23**.

Subchapter 5 Emergency Response

7:31-5.2 Emergency response program

(a) (No change.)

(b) Each **owner or operator shall develop and implement a written** emergency response (ER) program **which** shall include:

1. [A schedule for] Initial and annual refresher emergency response training for all employees in relevant procedures to implement the emergency response plan;

2. [A schedule to perform] **Performance of** at least one **EHS** ER exercise per calendar year in accordance with the following requirements:

2i-ii (No change.)

3. (No change.)

4. A description of the emergency notification system at the stationary source which shall include the following requirements for reporting EHS accidents:

i. Immediate notification to the Department's emergency communications center at [609-292-7172] **1-877 WARN DEP (1-877-927-6337)** by the emergency coordinator or designee of an EHS accident or imminent EHS accident at the stationary source. The notification shall include the following information:

(1)-(6) (No change.)

ii. (No change.)

iii. [The EHS accidental releases in (b)4iii(1) through iii below] **The following EHS accidental releases** shall be exempt from the notification provisions of **N.J.A.C. 7:31-5.2**(b)4 above provided the EHS accident is recorded in accordance with the procedures established for EHS accident investigation

at 40 CFR 68.60 with changes specified at N.J.A.C. 7:31-3.1(c)7 and 8 for Program 2 covered processes or 40 CFR 68.81 with changes specified at N.J.A.C. 7:31-4.1(c)15 through 21 for Program 3 covered processes. This exemption does not affect any other State or Federal reporting requirements.

(1) An EHS release that has no potential offsite impact **or that has no potential impact beyond the property boundary of the industrial complex;**

(2)-(3) (No change.)

Subchapter 6 Extraordinarily Hazardous Substances

7:31-6.1

(a)-(b) (No change.)

(c) 1-4 (No change.)

(c) 5i (No change.)

(c)5ii 40 CFR 68.130 Table 3 (and 4), List of Regulated Flammable Substances, including all future amendments and supplements[, with the exception of propane (CAS No. 74-98-6), propylene (CAS No. 115-07-1), butanes (normal butane (CAS No. 106-97-8) or isobutane (CAS No. 75-28-5), and butylenes (1-butene (CAS No. 106-98-9, 2-butene (CAS No. 107-01-7), butene (CAS No. 25167-67-3), 2-butene-cis (CAS No. 590-

18-1), 2-butene-trans (CAS No. 624-64-6), and 2-methylpropene (CAS No. 115-11-7))] are incorporated as N.J.A.C. 7:31-6.3(a), Table I, Part C.

7:31-6.2

(a)-(c) (No change.)

(d) For mixtures of EHS listed in N.J.A.C. 7:31-6.3(a) Table I, Part**s** A **or D, Group I, for which no concentration is specified,** the threshold quantity shall be calculated using the weight percent of EHS contained in the mixture. When the weight of the total mixture times the weight percent is equal to or greater than the threshold quantity for that EHS, the owner or operator must comply with this chapter.

i. For EHS's in Table I, Part A listed with a concentration in weight percent, the total weight of the solution shall be used to determine whether a threshold quantity is present in a process.

ii. For EHS's in Table I, Part A listed with a concentration in volume percent, the weight of only the pure EHS shall be used to determine whether a threshold quantity is present in a process.

(e)-(f) (No change)

(g) For intentional mixtures involving one or more functional groups listed on Table I, Part D, Group II, the threshold quantity shall be based on the heat of reaction (∆H) of the intended mixture as determined in accordance with N.J.A.C. 7:31-6.3(b)2iv and shall be derived from Table II at N.J.A.C. 7:31-6.3(c).

(h) For the purpose of determining whether a threshold quantity of an RHS Mixture is present in a process, the greatest amount of RHS Mixture contained in a process vessel shall be used. Administrative controls that limit the maximum quantity in the process vessel shall not be taken into account.

7:31-6.3 Extraordinarily hazardous substance list

(a) The substances listed in Table I, Parts A, B, [and] C, **and D Group I and Group II (with its correlated thresholds listed in Table II at N.J.A.C. 7:31 6.3(c))** constitute the Department's extraordinarily hazardous substance list.

Table I

Part A ---EHS List (No change.)

Part B (No change.)

Part C

40 CFR 68.130 Table 3 (and 4) incorporated by reference [with the exception of propane (CAS No. 74-98-6), propylene (CAS No. 115-07-1), butanes (normal butane (CAS No. 106-97-8) or isobutane (CAS No. 75-28-5), and butylenes (1-butene (CAS No. 106-98-9, 2-butene (CAS No. 107-01-7), butene (CAS No. 25167-67-3), 2-butene-cis (CAS No. 590-18-1), 2-butene-trans (CAS No. 624-64-6), and 2-methylpropene (CAS No. 115-11-7))]

Table I, Part D, Group I

List of Individual Reactive Hazard Substances

	Substance	CAS #	Threshold Quantity (pounds)	Basis for Listing
1.	Acetyl Peroxide	110-22-5	2500	e
2.	Butyl Hydroperoxide tertiary	75-91-2	2500	e
3.	Butyl hypochlorite tertiary	none	2500	b
4.	Calcium dithionite or Calcium hydrosulfite	15512-36-4	5000	b
5.	Chlorodinitrobenzenes	97-00-7	2500	d, e
6.	Cumene Hydroperoxide	80-15-9	2500	e
7.	Dibenzoyl peroxide	94-36-0	2500	f
8.	Diethyl Peroxide	628-37-5	2500	e
9.	Diisopropyl Peroxydicarbonate	105-64-6	2500	e
10.	Dinitro phenol, dry or wet, less than 15% water as 2,4	51-28-5	2500	a
11.	Dinitro resourcinol (wetted with not less than 15%	35860-81-6	2500	a

	Substance	CAS #	Threshold Quantity (pounds)	Basis for Listing
	water)			
12.	Dipicryl sulfide	2217-06-3	2500	a
13.	Di-tert-butyl Peroxide	110-05-4	2500	e
14.	Divinyl Acetylene	821-08-9	2500	e
15.	Ethyl Nitrate	625-58-1	2500	e
16.	Ethyl Nitrite (solutions)	109-95-5	2500	d, e
17.	Isosorbide dintrate	88-33-2	2500	a
18.	Magnesium diamide	7803-54-4	2500	b
19.	m-Dinitrobenzene	99-65-0	2500	d
20.	Nitroglycerine (alcohol solution)	55-63-0	2500	e
21.	Nitromethane	75-52-5	2500	d, e
22.	o-Dinitrobenzene	528-29-0	2500	e
23.	p-Dinitrobenzene	100-25-4	2500	d
24.	Peracetic acid (less than 40%)	79-21-0	2500	d, e
25.	Picric acid (wet, with not less than 10% water)	88-89-1	2500	d
26.	Potassium dithionite or Potassium hydrosulfite	14293-73-3	5000	b
27.	Propargyl bromide (3-Bromopropyne)	106-96-7	2500	d, e
28.	Silver picrate wetted with not less than 30% water	146-84-9	2500	a
29.	Sodium dithionite or Sodium hydrosulfite	7775-14-6	5000	b
30.	Trinitro benzene as 1,3,5 (wetted not less than 30 % water)	99-35-4	2500	a

Basis for listing:

a = DOT 4.1

b = DOT 4.2

c = DOT 4.3

d = NFPA 49

e = NFPA 325

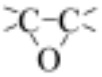
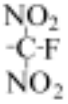
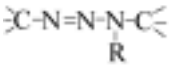
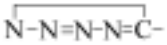
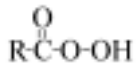
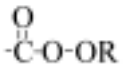
f = NFPA 432

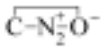
Table I, Part D, Group II

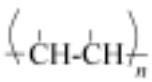
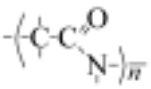
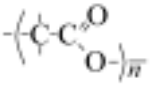
Reactive Hazard Substance Mixtures Functional Groups

(For Threshold Quantity Determination See N.J.A.C. 7:31-6.3(b) and N.J.A.C. 7:31-6.3(c))

	Functional Group(s)	Reactive Substance Class
1.	-C≡C-	Acetylenic compounds
2.	-C≡C-M	Metal acetylides
3.	-C≡C-X	Haloacetylene derivatives
		Diazirines
4.	CN_2	Diazo compounds
5.	-C-N=O	Nitroso compounds
	-N-N=O	
6.	$-C-NO_2$	Nitroalkanes, C-nitro and
	$Ar-NO_2$, $Ar(NO_2)_n$	Nitroaryl and Polynitroaryl compounds
	$C(NO_2)_n$	Polynitroalkyl compounds
	$O_2NC-CNO_2$	
	$HC[OCH_2C(NO_2)_3]_3$,	Trinitroethyl orthoesters
	$C[OCH_2(NO_2)_3]_4$	
7.	-C-O-N=O	Acyl or alkyl nitrites

	Functional Group(s)	Reactive Substance Class
8.	-C-O-NO_2	Acyl or alkyl nitrates
9.		1,2-Epoxides
10.	MC≡N→O	Metal fulminates or
	C=N-O-M	aci-nitro salts, oximates
11.		Fluorodinitromethyl compounds
12.	-N-M	N-metal derivatives
13.	-N=Hg^{+}=N-	Poly(dimercuryimmonium salts)
14.	-N-NO_2	N-nitro compounds
15.	=N^{+}-N-NO_2	N-Azolium nitroimidates
16.	-C-N=N-C-	Azo compounds
17.	Ar-N=N-O-R	Arenediazoates
18.	ArN=N-S-Ar	Arenediazo aryl sulfides
19.	Ar-N=N-O-N=N-Ar	Bis(arenediazo) oxides
20.	Ar-N=N-S-N=N-Ar	Bis(arenediazo) sulfides
21.		Trizenes
	(R=H, CN, OH, NO)	
22.	-N=N-N=N-	High-nitrogen compounds
		Tetrazoles
23.	-C-O-O-H	Alkylhydroperoxides
		Peroxyacids
24.	-C-O-O-C-	Peroxides (cyclic, diacyl, dialkyl,), peroxyesters
		

	Functional Group(s)	Reactive Substance Class
25.	-O-O-M	Metal peroxides, peroxoacid salts
	EOO^-	
	MOO^-	
26.	-O-O-E	Peroxoacids, peroxyesters
27.	$H_3N\rightarrow Cr\text{-}OO\text{-}$	Amminechromium peroxocomplexes
28.	$-N_3$	Azides (acyl, halogen, nonmetal, organic)
29.		Arenediazonium oxides
30.	$-C\text{-}N_2^+S^-$	Diazonium sulfides and derivatives, "Xanthates"
31.	$N^+\text{-}HZ^-$	Hydrazinium salts
	$N^+EO_n^-$	Oxosalts of nitrogenous bases
32.	$-N^+\text{-}OH\ Z^-$	Hydroxylaminium salts
33.	$-C\text{-}N_2^+Z^-$	Diazonium carboxylates or salts
34.	$[N\rightarrow Metal]^+\ Z^-$	Amminemetal oxosalts
35.	Ar-Metal-X	Halo-arylmetals
	X-Ar-Metal	Haloarenemetal π-complexes
36.	-N-X	Halogen azides
	XN_3	N-halogen compounds
		N-haloimides
37.	$-N\text{-}F_2$	Difluoroamino compounds
	$-C(NF)NF_2$	*N,N,N*-trifluoroalkylamidines
38.	N-O-	N-O compounds

	Functional Group(s)	Reactive Substance Class
39.	-O-X	Hypohalites
	XO_n	Halogen oxides
	$-Cl-O_3$	Perchloryl compounds
	ClO_2^-	Chlorite salts
	$R-O-Cl-O_3$	Alkyl perchlorates
	$RN^+H_3ClO_4^-$	Aminium perchlorates
40.		Polymerization, alkene monomers
41.		Polymerization, amide monomers
42.		Polymerization, ester monomers
43.	$S_2O_4^{--}$	Dithionites

Abbreviations: Ar = aromatic (benzene); M = metal; R = organic chain; X = halogen; E = nonmetal; Z = anion; n = integer variable; all other abbreviations are for the element symbols from the periodic table of elements

Note: Not all chemical bond symbols are shown.

(b) The following conditions apply for determining whether RHSs or RHS Mixtures listed in Part D of Table I are subject to the requirements of this chapter.

1. **Individual RHSs listed in Table I, Part D, Group I that are received, stored, and handled in combination with one or more other chemical substances specifically formulated to inhibit the reactive hazard (such as water reactivity,**

pyrophoric, or self-reacting) of the RHS shall be exempt from this chapter as long as the appropriate inhibitor concentration is maintained.

2. An RHS Mixture is a chemical substance or combination of substances that is intentionally mixed in a process vessel and is capable of undergoing a chemical reaction which produces toxic or flammable EHSs or energy. The negative value of the heat of reaction of an RHS Mixture is greater than or equal to 100 calories per gram of RHS Mixture. RHS Mixtures include a reactant, product, or byproduct that is a chemical substance or a mixture of substances having one or more of the chemical functional groups specified in Table I, Part D, Group II.

i. The heat of reaction, heat of combustion, heat of decomposition, or heat of explosion shall be used in accordance with iv below.

ii. The heat of solution or dilution shall not be considered when determining whether a mixture of substances is an RHS Mixture subject to this chapter.

iii. RHS Mixtures that are only processed in a scrubber that is operated as an air pollution control device in compliance with the conditions of a State permit pursuant to the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. shall not be subject to this chapter.

iv. The owner or operator shall determine and document the heat of reaction by using one of the following methods:

(1) Testing the intended combination under adiabatic conditions (no heat loss or heat gain) in an acceptable calorimetry test over a temperature range that is 300° C higher than the maximum projected or observed processing temperature or the maximum achievable temperature in the process vessel, whichever is lower; or

(2) A generally accepted practice such as a literature review or engineering calculations applicable to the RHS Mixture over a temperature range that is 300° C higher than the maximum projected or observed processing temperature or the maximum achievable temperature in the process vessel, whichever is lower;

(c) Table II – Reactive Hazard Substance Mixture Threshold Quantities

Heat of Reaction (Exothermic) ($-\Delta H_R$) (calories/g of RHS Mixture)	Threshold Quantity(Pounds)
$100 \leq -\Delta H_R \leq 200$	13,100
$200 \leq -\Delta H_R \leq 300$	8,700
$300 \leq -\Delta H_R \leq 400$	6,500
$400 \leq -\Delta H_R \leq 500$	5,200
$500 \leq -\Delta H_R \leq 600$	4,400
$600 \leq -\Delta H_R \leq 700$	3,700
$700 \leq -\Delta H_R \leq 800$	3,300

$800 \leq -\Delta H_R \leq 900$	**2,900**
$900 \leq -\Delta H_R \leq 1000$	**2,600**
$-\Delta HR \geq 1000$	**2,400**

(d) If an EHS is listed in Table I, Part D, Group I as an individual RHS and is also part of an RHS Mixture in a covered process as determined in accordance with N.J.A.C. 7:31-6.3(b)2, the lower threshold quantity shall apply throughout this chapter.

Subchapter 7 Risk Management Plan and TCPA Program Submission

7:31-7.1 Incorporation by reference

(a)-(b) (No change.)

(c) The following provisions of 40 CFR 68 Subpart G, are incorporated by reference with the specified changes:

1. 40 CFR 68.150(a) Submission, add the following phrase to the [beginning] **end** of the last sentence "[F] **f**or covered processes regulated under ~~to~~ 40 CFR 68."

2. 40 CFR 68.150(a) Submission, after "June 21, 1999" add the following sentence, "[For all covered processes including those only regulated under 40 CFR 68, s]**S**ubmittal of the RMP to the Department shall be in accordance with N.J.A.C. 7:31-7.2 below."

3. (No change.)

4. 40 CFR 68.190(a) Updates, after "June 21, 1999" add the following sentence, "For all covered processes [including those regulated under 40 CFR 68,] submittal of updates to the Department shall be in accordance with 40 CFR **68.**190(b) and N.J.A.C. **7:31-**7.2 [below]."

5. (No change.)

6. 40 CFR *68.*190(c) after USEPA add "and the Department."

7:31-7.2 TCPA risk management plan submission and updates

(a) [Prior to June 21, 1999] All owners or operators of a covered process shall submit the following to the Department in a format to be specified:

1. (No change.)

2. The following supplemental TCPA program information:

i-iv (No change.)

v. For RHS Mixtures containing one or more EHSs listed in Parts A, B, or C of Table I, identification of each covered process containing an RHS Mixture and

the number of process vessels in which the RHS Mixture is present at or above its threshold quantity.

3. The owner or operator shall identify and register each covered process having an individual RHS or an RHS Mixture and provide the following information in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a):

i. For each individual RHS listed at N.J.A.C. 7:31-6.3(a), Table I, Part D, Group I, the owner or operator shall register the total amount of the individual RHS in the covered process.

ii. For each regulated RHS Mixture identified pursuant to N.J.A.C. 7:31-6.3, the owner or operator shall register the maximum capacity of the process vessel containing the RHS Mixture. Administrative controls that limit the maximum quantity in the reaction vessel shall not be taken into account. For a covered process that has multiple process vessels containing an RHS Mixture at or above the threshold quantity, the owner or operator shall register the total combined capacity of the process vessels.

iii. For RHS mixtures, the heat of reaction range (or heat of combustion, heat of decomposition, or heat of explosion, as applicable) in calories/gram of RHS Mixture as listed at Table II of N.J.A.C. 7:31-6.3(c). If more than one RHS Mixture is present in the process vessel at different times, the owner or operator shall

register the RHS mixture having the highest heat of reaction range as shown on Table II.

iv. For RHS mixtures containing one or more EHS(s) listed in Parts A, B, or C of N.J.A.C. 7:31-6.3(a) Table I, in a process above the threshold quantity, an owner or operator shall register only the EHS listed on Part A, B, or C as a toxic or flammable substance, as applicable. Registration of these RHS Mixtures shall be made in accordance with N.J.A.C. 7:31-7.2(a)2v.

(b*)* In addition to updates required by N.J.A.C. 7:31-7.1(c)3-5, all owners or operators of a covered process shall submit an update to the Department within [six months] **30 days** of an increase in maximum inventory of a covered process.

7:31-7.5 Schedule for risk management program implementation

(a) Owners or operators having an approved risk management program shall comply with their approved risk management program for EHSs listed in N.J.A.C. 7:31-6.3, Table I, Part**s** A**, B, and /or C** until the risk management program is revised to reflect the new requirements of this chapter, which shall be no later than [June 21,-1999] **January 1, 2004**.

(b) All owners or operators of covered processes **having newly listed EHSs on Table I, Part C or Table I Part D, at or above threshold quantities,** shall be in compliance with this chapter by [June 21, 1999] **September 30, 2004.**

(c) Owners or operators planning to put into EHS service a new covered process for an EHS listed in N.J.A.C. 7:31-6.3, Table I, Part**s** A**, B, and/or C** (**except for newly listed LPG EHSs),** shall comply with N.J.A.C. 7:31-3.4 for Program 2 covered processed or N.J.A.C. 7:31-4.11 for Program 3 covered processes.

(d) Owners or operators planning to put into EHS service a new covered process for an EHS listed in N.J.A.C. 7:31-6.3, Table I, [Parts B and/or C] **Part D or the newly listed LPG EHSs in Part C** on or after [June 21,1999] **September 30, 2004**, shall comply with N.J.A.C. 7:31-3.4 for Program 2 covered processes or N.J.A.C. 7:31-4.11 for Program 3 covered processes.

Subchapter 8 – Other Federal Requirements

7:31-8.1 Incorporation by reference

(a)-(b) (No change.)

(c) The following provisions are incorporated by reference with the specified changes:

1. 40 CFR 200 Recordkeeping replace "Subpart D of this part" with N.J.A.C. 7:31-**3 and** 4."

2-3 (No change.)

4. 40 CFR 68.220 (a) add "and N.J.A.C. 7:31-3 (Program 2) and N.J.A.C. 7:31-4 (Program 3)**. [**"] **The Department shall audit stationary sources to determine compliance with N.J.A.C. 7:31."** to the end of the sentence.

Subchapter 11. Civil Administrative Penalties and Requests for Adjudicatory Hearings

7:31-11.4 Civil administrative penalty determination

(a)-(b) (No change.)

(c) The Department shall determine the amount of the civil administrative penalty for the offenses described in Table [II] **III** below on the basis of the category of offense and the frequency of the violation as follows:

TABLE [II] **III**

Penalty in U.S. Dollars
By Offense Category

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
1. Failure to provide information requested by the Department	N.J.A.C. 7:31-8.2(c)	1,000	2,000	5,000
2. Failure to authorize an insurance carrier to release information requested by the Department within 30 days of the request	N.J.A.C. 7:31-1.12(d)	2,000	4,000	10,000
3. Failure to pay any annual fee	N.J.A.C. 7:31-1.11(a)	one-third of fee	one-third of fee	one-third of fee
4. 40 CFR 68.15 - with changes specified at 7:31-1.1(c)5				
(a) Failure to develop a management system with a document plan	40CFR 68.15(a)	2,000	4,000	10,000
(b) Failure to assign a qualified person or position that has overall responsibility for development, implementation and integration of PM program	40CFR 68.15(b)	1,000	2,000	5,000
(c) Failure to document names and define organization charts	40 CFR 68.15(c)	1,000	2,000	5,000
5. 40 CFR 68.22 with changes specified at 7:31-2.1(c)2				
(a) Failure to use correct parameters for offsite consequence analysis	40 CFR 68.22(a) with changes specified at N.J.A.C. 7:31-2.1(c)2	500	1,000	2,500
6. 40 CFR 68.25				
(a) Failure to analyze all required worst case release scenarios for each stationary source	40 CFR 68.25(a)	4,000	8,000	20,000
7. 40 CFR 68.28				
(a) Failure to analyze alternative release scenarios	40 CFR 68.28(a)	4,000	8,000	20,000
8. 40 CFR 68.30				

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
(a) Failure to define offsite impact - population	40 CFR 68.30(a)	500	1,000	2,000
9. 40 CFR 68.33				
a) Failure to define offsite impact - environment	40 CFR 68.33(a)	500	1,000	2,000
10. 40 CFR 68.36(a)				
(a) Failure to update the offsite consequence analysis every 5 years	40 CFR 68.36(a)	2,000	4,000	10,000
(b) Failure to update offsite consequence analysis within 6 months if endpoint distance changes by a factor of 2 of more	40 CFR 68.36(b)	2,000	4,000	10,000
11. 40 CFR 68.39				
(a) Failure to maintain offsite consequence analysis documentation	40 CFR 68.39(a)	2,000	4,000	10,000
12. 40 CFR 68.42				
(a) Failure to include all required data in 5 year accident history	40 CFR 68.42(a)	2,000	4,000	10,000
13. 40 CFR 68.48 - with changes specified at 7:31-3.1(c)1				
(a) Failure to compile and maintain up-to-date safety information	40 CFR 68.48(a) with changes specified at N.J.A.C. 7:31-3.1(c)1	2,000	4,000	10,000
(b) Failure to ensure process is designed in compliance with recognized and generally accepted good engineering practices	40 CFR 68.48(b)	5,000	10,000	25,000
(c) Failure to update safety information after a change has occurred	40 CFR 68.48(c) with changes specified at N.J.A.C. 7:31-3.1 (c)2	500	1,000	2,500
14. 40 CFR 68.50				
(a) Failure to conduct a hazard review	40 CFR 68.50(a)	4,000	8,000	20,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
of the hazards associated with the regulated substance, process and procedures				
(b) Failure to document the results of the hazard review and ensure that problems identified were resolved in a timely manner	40 CFR 68.50(c)	2,000	4,000	10,000
(c) Failure to update the hazard review at least once every five years	40 CFR 68.50(d)	2,000	4,000	10,000
(d) Failure to update the hazard review when any major change in the process occurred	40 CFR 68.50(d)	4,000	8,000	20,000
(e) Failure to resolve all issues identified in the hazard review before startup of the changed process	40 CFR 68.50(d)	4,000	8,000	20,000
15. 40 CFR 68.52 - with changes specified at N.J.A.C. 7:31-3.1(c)3				
(a) Failure to prepare written standard operating procedures	40 CFR 68.52(a)	1,000	2,000	5,000
(b) Failure to update the standard operating procedures when a major change had occurred and prior to startup of the changed process	40 CFR 68.52(c)	1,000	2,000	5,000
16. 40 CFR 68.54 - with changes specified at N.J.A.C. 7:31-3.1(c)4				
(a) Failure to ensure the present operators or newly assigned operators have been trained or tested competent in the operating procedures	40 CFR 68.54(a)	2,000	4,000	10,000
(b) Failure to provide refresher training at least every three years or more often if changes have occurred to the standard operating procedures	40 CFR 68.54(b)	1,000	2,000	10,000
(c) Failure to provide training in any updated or new procedure prior to startup of a process after a major change	40 CFR 68.54(d)	1,000	2,000	5,000
17. 40 CFR 68.56				

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
(a) Failure to prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment	40 CFR 68.56(a)	1,000	2,000	5,000
(b) Failure to properly train or cause to be trained each employee involved in maintaining the on-going mechanical integrity of the process	40 CFR 68.56(b)	2,000	4,000	10,000
(c) Failure to ensure that contract maintenance employees are properly trained to perform the maintenance procedures	40CFR 68.56(c)	2,000	4,000	10,000
(d) Failure to properly perform or cause to be performed inspections and tests on process equipment that follow good engineering practices at a frequency consistent with applicable manufacturers recommendations, industry standards or codes, good engineering practices, or prior operating experience	40 CFR 68.56(d)	2,000	4,000	10,000
18. 40 CFR 68.58 - with changes specified at N.J.A.C. 7:31-3.1(c)5 and 6				
(a) Failure to certify that compliance with N.J.A.C. 7:31-3 has been evaluated at least every three years to verify that the procedures and practices developed under the rule are adequate and are being followed and that the process technology and equipment, as built and operated, are in accordance with 40 CFR 68.48(a)and(b)	40 CFR 68.58(a) with changes specified at N.J.A.C. 7:31-3.1(c)5	5,000	10,000	25,000
(b) Failure to conduct a compliance audit with at least one person knowledgeable in the process	40 CFR 68.58(b)	1,000	2,000	5,000
(c) Failure to develop a complete compliance audit report	40 CFR 68.58(c) with changes specified at N.J.A.C. 7:31-3.1(c)6	1,000	2,000	5,000
(d) Failure to document an appropriate response to each of the compliance	40 CFR 68.58(d)	1,000	2,000	5,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
audit findings and document that deficiencies have been corrected				
(e) Failure to retain the two most recent compliance audit reports	40 CFR 68.58(e)	1,000	2,000	5,000
19. 40 CFR 68.60 - with changes specified at N.J.A.C. 7:31-3.1(c)7 and 8				
(a) Failure to initiate an EHS accident investigation within 48 hours of the EHS accident occurrence	40 CFR 68.60(b) with changes specified at N.J.A.C. 7:31-3.1(c)8	1,000	2,000	5,000
(b) Failure to prepare a summary at the conclusion of the EHS accident investigation	40 CFR 68.50(c) with changes specified at N.J.A.C. 7:31-3.1(c)8	1,000	2,000	5,000
(c) Failure to promptly address and resolve the EHS accident investigation findings and recommendations and to document resolutions and corrective actions	40 CFR 68.60(d)	2,000	4,000	10,000
(d) Failure to review the findings of the EHS accident investigation with all affected personnel whose job tasks are affected by the findings	40 CFR 68.60(e)	1,000	2,000	5,000
(e) Failure to retain EHS accident investigation summaries for 5 years	40 CFR 68.60(f)	2,000	4,000	10,000
State provisions added to the federal provisions				
20. N.J.A.C. 7:31-3.2 - Emergency Response Program				
(a) Failure to comply with the emergency response requirements of N.J.A.C. 7:31-5	N.J.A.C. 7:31-3.2(a)	2,000	4,000	10,000
21. 7:31-3.3 - Triennial Report				
(a) Failure to submit a triennial report on or before each third anniversary of the initial approval of the risk	N.J.A,C, 7:31-3.3(a)	1,000	2,000	5,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
management program				
(b) Failure to provide all required information in the triennial report	N.J.A.C. 7:31-3.3(b)	500	1,000	2,500
22. 7:31-3.4 - New Covered Process construction and new EHS Service				
(a) Failure to submit required documentation at least 90 days prior to construction of a new Program 2 covered process at a stationary source for which there is no previously approved RMP	N.J.A.C. 7:31-3.4(a)1	2,000	4,000	10,000
(b) Failure to receive written Department approval before proceeding with construction for a new Program 2 covered process at stationary source for which there is no previously approved RMP	N.J.A.C. 7:31-3.4(a)2	6,000	12,000	30,000
(c) Failure to submit to the Department at least 90 days prior to the date the equipment is scheduled to be place into EHS service an update of the documentation required at N.J.A.C. 7:31-3.4(a)1 for a new Program 2 covered process at stationary source for which there is no previously approved RMP	N.J.A.C. 7:31-3.4(a)3	2,000	4,000	10,000
(d) Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11 for a new Program 2 covered process at stationary source for which there is no previously approved RMP	N.J.A.C. 7:31-3.4(a)4	one-third of fee	one-third of fee	one third of fee
(e) Failure to submit required documentation at least 90 days prior to placing the equipment into EHS service for existing equipment to be utilized for a new Program 2 covered process at a stationary source for which there is no previously approved risk management program	N.J.A.C.7:31-3.4(b)1	2,000	4,000	10,000
(f) Failure to submit to the Department the fees required by N.J.A.C. 7:31-11.1	N.J.A.C. 7:31-3.4(b)2	one-third of fee	one-third of fee	one-third of fee

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
for a new Program 2 covered process at a stationary source for which there is no previously approved risk management program				
(g) Failure to update required documentation at least 90 days prior to placing equipment into EHS service for a new Program 2 covered process being constructed or existing equipment to be utilized for a new Program 2 covered process at a stationary source that has a previously approved risk management program	N.J.A.C. 7:31-3.4(c)1	2,000	4,000	10,000
(h) Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11 for a new Program 2 covered process being constructed or existing equipment to be utilized for a new Program 2 covered process at a stationary source that has a previously approved risk management program	N.J.A.C. 7:31-3.4(c)2	one-third of fee	one-third of fee	one-third of fee
(i) Failure to enter into a consent agreement or consent agreement addendum, or to complete all items of the consent agreement or consent agreement addendum, as specified prior to placing EHS equipment into service for a new Program 2 covered process being constructed or existing equipment to be utilized for a new Program 2 covered process	N.J.A.C. 7:31-3.4(d)	5,000	10,000	25,000
23. 40 CFR 68.65 - with changes specified at N.J.A.C. 7:31-4.1(c)1through 4				
(a) Failure to compile written process safety information	40 CFR 68.65(a)-(d) with changes specified at N.J.A.C. 7:31-4.1(c)1-4	2,000	4,000	10,000
24. 40 CFR 68.67 - with changes specified at N.J.A.C. 7:31-4.1(c)5 through 7				
(a) Failure to perform an initial hazard	40 CFR 68.67(a)	5,000	10,000	25,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
analysis with risk assessment on processes covered by Subchapter 4 - Program 3 Prevention Program that conforms to the requirements outlined in 68.67(a) with changes specified at N.J.A.C. 7:31-4.1(c)6	with changes specified at N.J.A.C. 7:31-4.1(c)6			
(b) Failure to use an approved methodology in performing the hazard analysis with risk assessment	40 CFR 68.67(b)	2,000	4,000	10,000
(c) Failure to address all required items in the process hazard analysis with risk assessment	40 CFR 68.67(c)	1,000	2,000	5,000
(d) Failure to perform the process hazard analysis with risk assessment with a properly composed team	40 CFR 68.67(d)	1,000	2,000	5,000
(e) Failure to establish a system to promptly address and document the team's findings and recommendations	40 CFR 68.67(e)	2,000	4,000	10,000
(f) Failure to update and revalidate the hazard analysis with risk assessment every five (5) years after the completion of the initial process hazard analysis with risk assessment	40 CFR 68.67(f) with changes specified at N.J.A.C. 7:31-4.1(c)7	2,000	4,000	10,000
(g) Failure to retain the process analysis with risk assessment and updates or revalidation for each process covered by this section, as well as documented resolution of recommendation, for the life of the process	40 CFR 68.67(g)	2,000	4,000	10,000
State provisions added to the federal provisions				
25. N.J.A.C. 7:31-4.2 - Process Hazard Analysis With Risk Assessment For Specific Pieces of EHS Equipment or Operating Alternatives				
(a) Failure to perform the process hazard analysis with risk assessment using the correct parameters and methods	N.J.A.C. 7:31-4.2(b)	5,000	10,000	25,000
(b) Failure to perform an evaluation of	N.J.A.C. 7:31-	2,000	4,000	10,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
risk reduction measures to significantly reduce the frequency or consequence of each potential offsite release scenario	4.2(c)			
(c) Failure to maintain documentation of the process hazard analysis with risk assessment.	N.J.A.C. 7:31-4.2(d)	2,000	4,000	10,000
(d) Failure to prepare a report of the process hazard analysis with risk assessment	N.J.A.C. 7:31-4.2(e)	2,000	4,000	10,000
26. 40 CFR 68.69 - with changes specified at N.J.A.C. 7:31-4.1(c)8				
(a) Failure to develop and implement written standard operating procedures	40 CFR 68.69(a)	1,000	2,000	5,000
(b) Failure to make standard operating procedures readily accessible to employees who work in or maintain a process	40 CFR 68.69(b)	1,000	2,000	5,000
(c) Failure to review standard operating procedures as often as necessary to reflect current practices	40 CFR 68.69(c)	1,000	2,000	5,000
(d) Failure to certify annually that these standard operating procedures are current and accurate	40 CFR 68.69(c)	1,000	2,000	5,000
(e) Failure to develop and implement safe work practices in conformance with 40 CFR 68.69(d)	40 CFR 68.69(d)	2,000	4,000	10,000
State provisions added to the federal provisions				
27. N.J.A.C. 731-4.3 - Standard Operating Procedures				
(a) Failure to include required information in standard operating procedures	N.J.A.C. 7:31-4.3(b)	500	1,000	2,500
28. 40 CFR 68.71 - with changes specified at N.J.A.C. 7:31-4.1(c)9				
(a) Failure to provide initial training in compliance with 40 CFR 68.71(a)1or 2	40 CFR 68.71(a)	2,000	4,000	10,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
(b) Failure to provide refresher training at least every three years or more often if necessary to assure that employees understand and adhere to the current operating procedures	40 CFR 68.71(b)	1,000	2,000	5,000
(c) Failure to ascertain that each employee involved in operating a process has received and understood the required training	40 CFR 68.71(c)	500	1,000	2,500
(d) Failure to prepare a record containing the identity of the employee trained, date of training and means used to verify that the employee understood the training	40 CFR 68.71(c)	2,000	4,000	10,000
State provisions added to the federal provisions				
29. N.J.A.C. 7:31-4.4 EHS Operator Training				
(a) Failure to provide written job descriptions which include the duties and responsibilities for each EHS operator position	N.J.A.C. 7:31-4.4(a)	500	1,000	2,500
(b) Failure to specify the qualifications required for the personnel responsible for training EHS operators	N.J.A.C. 7:31-4.4(b)	500	1,000	2,500
30. 40 CFR 68.73 - with changes specified at N.J.A.C. 7:31-4.1(c)10 and 11				
(a) Failure to include all EHS equipment of the covered process in the mechanical integrity/preventive maintenance program	40 CFR 68.73(a) with changes specified at N.J.A.C. 7:31-4.1(c)11	1,000	2,000	5,000
(b) Failure to establish and implement written procedures to maintain the on-going integrity of the process equipment	40 CFR 68.73(b)	2,000	4,000	10,000
(c) Failure to properly train each employee involved in maintaining the on-going integrity of the process	40 CFR 68.73(c)	2,000	4,000	10,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
equipment				
(d) Failure to perform inspections and tests on the process equipment as required	40 CFR 68.73(d)(1)	1,000	2,000	5,000
(e) Failure to follow recognized and generally accepted good engineering procedures for inspections and tests	40 CFR 68.73(d)(2)	1,000	2,000	5,000
(f) Failure to maintain the frequency of inspections and tests of process equipment consistent with applicable manufacturer's recommendations and good engineering practices or more frequently if determined necessary by prior operating experience	40 CFR 68.73(d)(3)	1,000	2,000	5,000
(g) Failure to properly document each inspection and test performed on process equipment	40 CFR 68.73(d)(4)	500	1,000	2,500
(h) Failure to correct deficiencies in equipment that are outside acceptable limits before further use or in a safe and timely manner	40 CFR 68.73(e)	2,000	4,000	10,000
(i) Failure to assure that equipment as it is fabricated is suitable for the process application for which it will be used	40 CFR 68.73(f)(1)	1,000	2,000	5,000
(j) Failure to make appropriate checks and inspections to assure that equipment is installed properly and is consistent with design specifications, and the manufacturer=s instructions	40 CFR 68.73(f)(2)	1,000	2,000	5,000
(k) Failure to assure that maintenance materials, spare parts or equipment are suitable for the process application for which they will be used	40 CFR 68.73(f)(3)	1,000	2,000	5,000
State provisions added to the federal provisions				
31. N.J.A.C. 7:31-4.5 Mechanical Integrity/Preventive Maintenance Program				
(a). Failure to implement a system for	N.J.A.C. 7:31-	2,000	4,000	10,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
maintaining accurate records of all inspections, breakdowns, repairs and replacements of EHS equipment with the means of data retrieval and analysis to determine frequency of inspections and tests	4.5(b)			
32. 40 CFR 68.75 - with changes specified at N.J.A.C. 7:31-4.1(c)12				
(a) Failure to establish and implement written procedures to manage changes to process chemicals, technology, equipment or procedures or change to stationary sources that affect a covered process	40 CFR 68.75(a)	2,000	4,000	10,000
(b) Failure to address all requirements prior to any change	40 CFR 68.75(b) with changes specified at N.J.A.C. 7:31-4.1(c)12	1,000	2,000	5,000
(c) Failure to properly inform or train employees affected by the change prior to start-up of the process or affected part or the process	40 CFR 68.75(c)	1,000	2,000	5,000
(d) Failure to update process safety information prior to startup of the process or the effected part of the process	40 CFR 68.75(d)	1,000	2,000	5,000
(e) Failure to update standard operating procedures or practices prior to startup of the process or the affected part of the process	40 CFR 68.75(e)	1,000	2,000	5,000
State provisions added to the federal provisions				
33. N.J.A.C. 7:31-4.6 Management of Change				
(a) Failure to identify the associated release scenarios and changes in rate, duration or quantity for any change in the covered process or procedure that results in an increase in rate, duration or quantity, or release frequency	N.J.A.C. 7:31-4.6(b)	1,000	2,000	5,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
b) Failure to analyze the release scenario associated with the change in accordance with parameters and methods provided at N.J.A.C. 7:31-4.2 to determine whether a criterion endpoint defined at N.J.A.C. 7:31-4.2(b)iv extends beyond the stationary source boundary	N.J.A.C. 7:31-4.6(b)	2,000	4,000	10,000
(c) Failure to maintain documentation and prepare a report of hazard analysis with risk assessment required by 7:31-4.2(d) and (e) for a release scenario due to a change that results in a criterion endpoint extending beyond the site boundary	N.J.A.C. 7:31-4.6(c)	4,000	8,000	20,000
(d) Failure to establish and implement required procedures for temporary changes	N.J.A.C. 7:31-4.6(d)	2,000	4,000	10,000
34. 40 CFR 68.77				
(a) Failure to perform a pre-startup safety review of a new stationary source or for a modified stationary source when the modification is significant enough to require a change in the process safety information	40 CFR 68.77(a)	2,000	4,000	10,000
(b) Failure of the pre-startup safety review to confirm all requirements prior to introducing an EHS to a process	40 CFR 68.77(b)	2,000	4,000	10,000
State provisions added to the federal provisions				
35. 7:31-4.7 Safety Review: Design and Pre-startup				
(a) Failure to conduct a safety review of design for each new EHS facility prior to construction	N.J.A.C. 7:31-4.7(b)	2,000	4,000	10,000
(b Failure to prepare a report for a safety review of design	N.J.A.C. 7:31-4.7(c)	1,000	2,000	5,000
(c) Failure to prepare a pre-startup safety review report	N.J.A.C. 7:31-4.7(e)	1,000	2,000	5,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
36. 40 CFR 68.79 - with changes specified at N.J.A.C. 7:31-4.1(c)13 and 14				
(a) Failure of owner or operator to certify that they have evaluated compliance with the provisions of this section at least every year to verify that the procedures and practices developed under the standards are adequate and are being followed and that the process technology and equipment, as built and operated, are in accordance with 40 CFR 68.65(c) and (d)	40 CFR 68.79 with changes specified at N.J.A.C. 7:31-4.1(c)13	4,000	8,000	20,000
(b) Failure to conduct the compliance audit by at least one person knowledgeable in the process	40 CFR 68.79(b)	1,000	2,000	5,000
(c) Failure to develop a report of the compliance audit	40 CFR 68.79(c) with changes specified at N.J.A.C. 7:31-4.1(c)4	1,000	2,000	5,000
(d) Failure to promptly determine and document an appropriate response to each of the findings of the compliance audit or failure to document that deficiencies found in the compliance audit have been corrected	40CFR 68.79(d)	1,000	2,000	5,000
(e) Failure to retain the two (2) most recent compliance audit reports	40 CFR 68.79(c)	1,000	2,000	5,000
State provisions added to the federal provisions				
37. 7:31-4.9 Annual Reports				
(a) Failure to submit an annual report to the Department on or before the anniversary date	N.J.A.C. 7:31-4.9(a)	1,000	2,000	5,000
(b) Failure to include all required information in the annual report	N.J.A.C. 7:31-4.9(b)	500	1,000	2,500
38. 40 CFR 68.81 - with changes specified at N.J.A.C. 7:31-4.1(c)14-21				
(a) Failure to investigate an EHS	40 CFR 68.81(a)			

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
accident	with changes specified at N.J.A.C. 7:31-4.1(c)16	2,000	4,000	10,000
(b) Failure to initiate an EHS accident investigation within 48 hours following the EHS accident	40 CFR 68.81(b) with changes specified at N.J.A.C. 7:31-4.1(c)15	1,000	2,000	5,000
(c) Failure to establish the proper EHS accident investigation team	40 CFR 68.81(c) with changes specified at N.J.A.C. 7:31-4.1(c)15	1,000	2,000	5,000
(d) Failure to prepare a complete EHS accident report at the conclusion of the investigation	40 CFR 68.81(d) with changes specified at N.J.A.C. 7:31-4.1(c)15, and 17-21	1,000	2,000	5,000
(e) Failure to establish a system to promptly address and resolve the EHS accident report findings and recommendations	40 CFR 68.81(e) with changes specified at N.J.A.C. 7:31-4.1(c)15	2,000	4,000	10,000
(f) Failure to properly document the resolutions and corrective actions	40 CFR 68.81(e) with changes specified at N.J.A.C. 7:31-4.1(c)15	1,000	2,000	5,000
(g) Failure to review the report with all affected personnel whose job tasks are relevant to the EHS accident findings	40 CFR 68.81(f)	1,000	2,000	5,000
(h) Failure to retain the EHS accident report for five (5) years	40 CFR 68.81(g) with changes specified at N.J.A.C. 7:31-4.1(c)15	2,000	4,000	10,000
39. 40 CFR 68.83				
(a) Failure to develop a written plan of action regarding the implementation of	40 CFR 68.83(a)	2,000	4,000	10,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
employee participation required by this section				
(b) Failure to consult with employees and their representatives on the conduct and development of a process hazard analysis with risk assessment and/or development of the other elements of process safety management in this rule	40 CFR 68.83(b) with changes specified at N.J.A.C. 7:31-4.1(c)22	1,000	2,000	5,000
(c) Failure to provide to employees and their representatives access to a process hazard analysis with risk assessment and/or to all other information required to be developed under this rule	40 CFR 68.83(c) with changes specified at N.J.A.C. 7:31-4.1(c)22	2,000	4,000	10,000
40. 40 CFR 68.85				
(a) Failure to issue a hot work permit for hot work operations conducted on or near a covered process	40 CFR 68.85(a)	1,000	2,000	5,000
(b) Failure to document all requirements in the hot work permit	40 CFR 68.85(b)	500	1,000	2,000
41. 40 CFR 68.87				
(a) Failure to obtain and evaluate information regarding contractor=s safety performance and programs	40 CFR 68.87(b)(1)	2,000	4,000	10,000
(b) Failure to inform contractor of known fire, explosion or toxic release hazard related to the contractors work and the process	40 CFR 68.87(b)(2)	2,000	4,000	10,000
(c) Failure to explain to the contractor the applicable provisions of Subpart E - Emergency Response	40 CFR 68.87(b)(3)	1,000	2,000	5,000
(d) Failure to develop and implement safe work practices consistent with 68.69(d) to control entrance, presence and exit of the contractor in covered process areas	40 CFR 68.87(b)(4)	1,000	2,000	5,000
(e) Failure to periodically evaluate the performance of the contractor in fulfilling obligations as specified in this section	40 CFR 68.87(b)(5)	2,000	4,000	10,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
(f) Failure to assure that each contract employee is trained in the work practices necessary to perform the job	40 CFR 68.87(c)(1)	2,000	4,000	10,000
(g) Failure to assure that each contract employee is instructed in known potential fire, explosion or toxic release hazards related to the job	40 CFR 68.87(c)(2)	2,000	4,000	10,000
(h) Failure to document that each contract employee has received and understood the training required by this section	40 CFR 68.87(c)(3)	1,000	2,000	5,000
(i) Failure to assure that each contract employee follows the safety rules of the stationary source which includes the safe work practices required by 68.69(d)	40 CFR 68.87(c)(4)	2,000	4,000	10,000
(j) Failure to advise the owner or operator of any unique hazards presented by the contractor=s work or of any hazards found by the contractor	40 CFR 68.87(c)(5)	2,000	4,000	10,000
State provisions added to the federal provisions				
42. 7:31-4.8 Emergency Response Program				
(a) Failure to establish an emergency response element of the risk management program in accordance with Subchapter 5 of this chapter	N.J.A.C. 7:31-4.8(a)	4,000	8,000	20,000
43. 7:31-4.10 Obligations Upon Temporary Discontinuance of EHS Use, Storage and Handling				
(a) Failure to continue activities required of the registrant by this chapter until a consent agreement or consent agreement addendum is signed by the registrant and by the Department or to comply with the requirements of that consent agreement or consent agreement addendum for covered processes that are temporarily discontinued	N.J.A.C. 7:31-4.10(a)	2,000	4,000	10,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
44. 7:31-4.11 - New Covered Processes - Construction and New EHS Service				
(a) Failure to submit required documentation at least 90 days prior to construction of a new Program 3 covered process at a stationary source for which there is no previously approved risk management program	N.J.A.C. 7:31-4.11(a)1	2,000	4,000	10,000
(b) Failure to receive written Department approval before proceeding with construction for a new Program 3 covered process at a stationary source for which there is no previously approved risk management program	N.J.A.C. 7:31-4.11(a)2	6,000	12,000	30,000
(c) Failure to submit to the Department at least 90 days prior to the date the equipment is scheduled to be placed into EHS service an update of the documentation required at N.J.A.C. 7:31-4.11(a)1. for a new Program 3 covered process at a stationary source for which there is no previously approved risk management program	N.J.A.C. 7:31-4.11(a)3	2,000	4,000	10,000
(d) Failure to conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e) for a new Program 3 covered process at a stationary source for which there is no previously approved risk management program	N.J.A.C. 7:31-4.11(a)4	4,000	8,000	20,000
(e) Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11 for a new Program 3 covered process at a stationary source for which there is no previously approved risk management program	N.J.A.C. 7:31-4.11(a)5	one-third of fee	one-third of fee	one-third of fee
(f) Failure to submit required documentation at least 90 days prior to placing the equipment into EHS service for existing equipment to be utilized for a new Program 3 covered process at a stationary source for which there is no previously approved risk management	N.J.A.C. 7:31-4.11(b)1	2,000	4,000	10,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
program				
(g) Failure to conduct a pre-startup review in accordance with N.J.A.C. 7:31-4.7(d) and (e) for a new Program 3 covered process at a stationary source for which there is no previously approved risk management program	N.J.A.C. 7:31-4.11(b)2	2,000	4,000	10,000
(h) Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11to utilize existing equipment for a new Program 3 covered process at a stationary source for which there is no previously approved risk management program	N.J.A.C. 7:31-4.11(b)3	one-third of fee	one-third of fee	one-third of fee
(i) Failure to submit required documentation at least 90 days prior to placing equipment into EHS service for a new Program 3 covered process being constructed or existing equipment to be utilized for a new Program 3 covered process at a stationary source that has a previously approved risk management program	N.J.A.C. 7:31-4.11(c)1	2,000	4,000	10,000
(j) Failure to conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e) for a new Program 3 covered process being constructed or existing equipment to be utilized for a new Program 3 covered process at a stationary source that has a previously approved risk management program	N.J.A.C. 7:31-4.11(c)2	2,000	4,000	10,000
(k) Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11 for a new Program 3 covered process being constructed or existing equipment to be utilized for a new Program 3 covered process at a stationary source that has a previously approved risk management program	N.J.A.C. 7:31-4.11(c)3	one-third of fee	one-third of fee	one-third of fee
(*l*) Failure to enter into a consent agreement or consent agreement addendum and to complete all items of the consent agreement or consent	N.J.A.C. 7:31-4.11(d)	6,000	12,000	30,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
agreement addendum prior to placing EHS equipment into service for a new Program 3 covered process being constructed or existing equipment to be utilized for a new program 3 covered process				
45. 40 CFR 68.90 - with changes specified at N.J.A.C. 7:31-5.1(c)1 and 2				
(a) Failure to comply with alternative emergency response requirements for Program 2 covered processes for which employees will not respond to an emergency	40 CFR 68.90(b) with changes specified at N.J.A.C. 7:31-5.1(c)1 and 2	1,000	2,000	5,000
46. 40 CFR 68.95 - with changes specified at N.J.A.C. 7:31-5.1(c)3 and 4				
(a) Failure to develop an emergency response plan	40 CFR 68.95(a)(1)	4,000	8,000	20,000
(b) Failure to provide procedures for the use of emergency response equipment and for its inspection, testing and maintenance	40 CFR 68.95(a)(2)	1,000	2,000	5,000
(c) Failure to provide initial and annual refresher emergency response training for all employees in relevant procedures	40 CFR 68.95(a)(3)	1,000	2,000	5,000
(d) Failure to provide procedures to review and update, as appropriate, the emergency response plan	40 CFR 68.95(a)(4)	1,000	2,000	5,000
(e) Failure to coordinate the emergency response plan with the community emergency response plan developed under 42 U.S.C. 11003	40 CFR 68.95(c)	1,000	2,000	5,000
State provisions added to the federal provisions				
47. 7:31-5.2 - Emergency Response Program				
(a) Failure to provide initial and annual refresher emergency response training for all employees in relevant procedures	N.J.A.C. 7:31-5.2(b)1	1,000	2,000	5,000
(b) Failure to complete at least one	N.J.A.C. 7:31-			

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
emergency response exercise each calendar year	5.2(b)2	2,000	4,000	10,000
(c) Failure to complete a written assessment of the ER plan and of the adequacy or need for ER equipment after each ER plan implementation or each ER exercise	N.J.A.C. 7:31-5.2(b)3	1,000	2,000	5,000
(d) Failure to describe and implement the emergency notification system	N.J.A.C. 7:31-5.2(b)4	2,000	4,000	10,000
48. 40 CFR 68.150 - with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2				
(a) Failure to submit a single RMP that includes the information required by 68.155 through 68.185 prior to June 21, 1999	40 CFR 68.150(a) with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2	2,500	5,000	12,500
(b) Failure to submit the first RMP prior to three years after the date on which a regulated substance is first listed under 68.130	40 CFR 68.150(b)2	2,500	5,000	12,500
(c) Failure to submit the first RMP prior to the date on which a regulated substance is first present above a threshold quantity in a process	40 CFR 68.150(b)3	2,500	5,000	12,500
49. 40 CFR 68.190 - with changes specified at N.J.A.C. 7:31-7.1(c)3-5				
(a) Failure to review, update as specified in 68.190(b), and submit the RMP in a method and format to a central point specified by USEPA prior to June 21, 1999	40 CFR 68.190(a) with changes specified at N.J.A.C. 7:31-7.1(c)3 and 4	1,000	2,000	5,000
(b) Failure to revise, update and submit the RMP in accordance with the conditions required at 68.190(b) and (c)	40 CFR 68.190(a) with changes specified at N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000
State provisions added to the federal provisions				
50. 7:31-7.2 - TCPA Risk Management				

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
Plan Submission				
(a) Failure to submit all required information for the TCPA RMP	N.J.A.C. 7:31-7.2(a)	1,000	2,000	5,000
(b) Failure to submit updates for maximum EHS inventory changes	N.J.A.C. 7:31-7.2(b)	1,000	2,000	5,000
51. 7:31-7.4 - Transfer of Risk Management Program				
(a) Failure of a new owner or operator to adopt an existing, or obtain a new, approved risk management program	N.J.A.C. 7:31-7.4(a) and (b)	2,000	4,000	10,000
52. 40 CFR 68.200 - with changes specified at N.J.A.C. 7:31-8.1(c)1				
(a) Failure to maintain records supporting the implementation of this chapter for five years unless otherwise provided in Subchapter 4	40 CFR 68.200(a) with changes specified at N.J.A.C. 7:31-8.1(c)1	2,000	4,000	10,000
53. 40 CFR 68.220 - with changes specified at N.J.A.C. 7:31-8.1(c)2-12				
(a) Failure to provide the Department access to the stationary source, supporting documentation, and any area where an accidental release could occur in accordance with N.J.A.C. 7:31-8.2	40 CFR 68.220(h) with changes specified at N.J.A.C. 7:31-8.1(c)5	2,000	4,000	10,000
(b) Failure to comply with the requirements of a consent agreement or administrative order for a risk management program and RMP	40 CFR 68.220(h) with changes specified at N.J.A.C. 7:31-8.1(c)10	2,000	4,000	10,000
54. Failure to submit stationary source data for work plan	N.J.A.C. 7:31-9.1(c)	2,000	4,000	10,000
55. Failure to nominate on time three consultants to perform the EHSARA	N.J.A.C. 7:31-9.3(b)	2,000	4,000	10,000
56. Failure to nominate on time an additional three consultants, upon determination of the inadequacy of the first three	N.J.A.C. 7:31-9.4(d)1	2,000	4,000	10,000
57. Failure to execute contract with	N.J.A.C. 7:31-	2,000	4,000	10,000

Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
chosen consultant within 45 days of receipt of notification of the name of the consultant	9.4(e)			
58. Failure to perform an EHSARA according to the schedule in the work plan	N.J.A.C. 7:31-9.4(f)	2,000	4,000	10,000
59. Failure of owner or operator's consultant to prepare and submit for Department review a report of EHSARA in accordance with the work plan schedule when a consultant hired by the owner or operator prepares the report of EHSARA	N.J.A.C. 7:31-9.5(b)	2,000	4,000	10,000
60. Failure of consultant to obtain approval in writing from the Department to subcontract any of the work of the EHSARA or to change the staff named to do any of the work of the EHSARA	N.J.A.C. 7:31-9.3(c)4	750	1,500	3,750

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
1.	Failure to comply with the requirements of 40 CFR 68 as incorporated at N.J.A.C. 7:31 by September 18, 2004 for covered processes with EHSs listed in Table I, Part or by June 18, 2003 for covered processes with EHSs listed in N.J.A.C. 7:31-6.3 Table 1 Part A, B, or C.	40 CFR 68.10(a)(1), N.J.A.C. 7:31-1.1(c)3i&ii	2,000	4,000	10,000
2.	Failure to comply with the requirements of 40 CFR 68 as incorporated at N.J.A.C. 7:31 within three years after the date on which a regulated substance is first listed at 40 CFR 68.130.	40 CFR 68.10(a)(2), N.J.A.C. 7:31-1.1(c)3i	2,000	4,000	10,000
3.	Failure to comply with the requirements of 40 CFR 68 as incorporated at N.J.A.C. 7:31 no later than the date on which a regulated substance is first present at a threshold quantity in a process.	40 CFR 68.10(a)(3), N.J.A.C. 7:31-1.1(c)3i	2,000	4,000	10,000
4.	Failure to comply with the requirements of 40 CFR 68 as incorporated at N.J.A.C. 7:31 for new covered processes in accordance with the requirements at N.J.A.C. 7:31-3.4 (for Program 2 covered processes) or N.J.A.C. 7:31-4.11 (for Program 3 covered processes).	40 CFR 68.10(a), N.J.A.C. 7:31-1.1(c)3iii	1,000	2,000	5,000
5.	Failure to determine that a covered process is subject to Program 2 requirements when the process does not meet the eligibility requirements of Program 3.	40 CFR 68.10(c), N.J.A.C. 7:31-1.1(c)3iv	1,000	2,000	5,000
6.	Failure to determine that a covered process in NAICS code 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311, or 32532 is subject to Program 3 requirements.	40 CFR 68.10(d)(1), N.J.A.C. 7:31-1.1(c)3v	2,000	4,000	10,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
7.	Failure to determine that a covered process subject to the OSHA process safety management standard, 29 CFR 1910.119, is subject to Program 3 requirements.	40 CFR 68.10(d)(2), N.J.A.C. 7:31-1.1(c)3v	2,000	4,000	10,000
8.	Failure to comply with the requirements of a new Program level that applies to the process and update the RMP as provided in 40 CFR 68.190 as incorporated at N.J.A.C. 7:31-7.1(c) at the time the covered process no longer meets the eligibility criteria of its Program level.	40 CFR 68.10(e), N.J.A.C. 7:31-1.1(a)	2,000	4,000	10,000
9.	Failure to submit a single RMP, as provided in 40 CFR 68.150 to 40 CFR 68.185(b) with changes specified at N.J.A.C. 7:31-7.1(c). or Failure to include in the RMP a registration that reflects all covered processes.	40 CFR 68.12(a), N.J.A.C. 7:31-1.1(c)4i	5,000	10,000	25,000
10.	Failure to develop and implement a management system for a Program 2 covered process as provided in 40 CFR 68.15 with changes specified at N.J.A.C. 7:31-1.1(c)5 in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(c)(1), N.J.A.C. 7:31-1.1(c)4ii(1)&(2)	4,000	8,000	20,000
11.	Failure to conduct a hazard assessment as provided in 40 CFR 68.20 through 68.42, incorporated with changes specified at N.J.A.C. 7:31-2.1(c)1 and 2 and N.J.A.C. 7:31-2.2 in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 1.1(c)4.	40 CFR 68.12(c)(2), N.J.A.C. 7:31-1.1(c)4ii(1)&(3)	6,000	12,000	30,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
12.	Failure to implement the Program 2 prevention steps provided in 40 CFR 68.48 through 40 CFR 68.60 incorporated with changes specified at N.J.A.C. 7:31-3.1(c)1-10 and N.J.A.C. 7:31-3.2 through 3.5 or implement the Program 3 prevention steps provided in 40 CFR 68.65 through 68.87, incorporated with changes specified at N.J.A.C. 7:31-4.1(c)1-23 and N.J.A.C. 7:31-4.2 through 4.11, in addition to meeting the requirements of 40 CFR 68.12(a) incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(c)(3), N.J.A.C. 7:31-1.1(c)4ii(1)&(4)	1,000	2,000	5,000
13.	Failure to develop and implement an emergency response program as provided in 40 CFR 68.90 to 68.95 incorporated with changes specified at N.J.A.C. 7:31-5.1(c)1-4 and N.J.A.C. 7:31-5.2 in addition to meeting the requirements of 40 CFR 68.12(a) incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(c)(4), N.J.A.C. 7:31-1.1(c)4ii(1)&(5)	4,000	8,000	20,000
14.	Failure to submit as part of the RMP the data on prevention program elements for Program 2 processes as provided in 40 CFR 68.170 as incorporated at N.J.A.C. 7:31-7.1(a) in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(c)(5), N.J.A.C. 7:31-1.1(c)4ii(1)&(5)	500	1,000	2,000
15.	Failure to develop and implement a management system for a Program 3 covered process as provided in 40 CFR 68.15 with changes specified at N.J.A.C. 7:31-1.1(c)5 in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(d)(1), N.J.A.C. 7:31-1.1(c)4iii(1)&(2)	4,000	8,000	20,000
16.	Failure to conduct a hazard assessment as provided in 40 CFR 68.20 through 68.42 with changes specified at N.J.A.C. 7:31-2.1(c)1 and 2 and N.J.A.C. 7:31-2.2 in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(d)(2), N.J.A.C. 7:31-1.1(c)4iii(1)&(3)	6,000	12,000	30,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
17.	**Failure to implement the prevention requirements of 40 CFR 68.65 through 68.87 with changes specified at N.J.A.C. 7:31-4.1(c)1-24 and N.J.A.C. 7:31-4.2 through 4.11 in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.**	**40 CFR 68.12(d)(3), N.J.A.C. 7:31-1.1(c)4iii(1)&(4)**	**1,000**	**2,000**	**5,000**
18.	**Failure to develop and implement an emergency response program as provided in 40 CFR 68.90 to 68.95 incorporated with changes specified at N.J.A.C. 7:31-5.1(c)1-4 and N.J.A.C. 7:31-5.2 in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.**	**40 CFR 68.12(d)(4), N.J.A.C. 7:31-1.1(c)4iii(1)&(5)**	**4,000**	**8,000**	**20,000**
19.	**Failure to submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in 40 CFR 68.175 as incorporated at N.J.A.C. 7:31-7.1(a) in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.**	**40 CFR 68.12(d)(5), N.J.A.C. 7:31-1.1(c)4iii(1)**	**500**	**1,000**	**2,000**
20.	**Failure to develop a management system to oversee the implementation of the risk management program elements for Program 2 and Program 3 covered processes.**	**40 CFR 68.15(a), N.J.A.C. 7:31-1.1(a)**	**4,000**	**8,000**	**20,000**
21.	**Failure to assign a qualified person or position that has the overall responsibility for the development, implementation, and integration of the risk management program elements.**	**40 CFR 68.15(b), N.J.A.C. 7:31-1.1(a)**	**1,000**	**2,000**	**5,000**
22.	**Failure to document the names or positions of the people who have been assigned responsibility for implementing individual requirements of 40 CFR 68 incorporated at N.J.A.C 7:31 and define the lines of authority through an organization chart or similar document.**	**40 CFR 68.15(c), N.J.A.C. 7:31-1.1(a)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
23.	**Failure to include in the management system a documentation plan which: (1) provides a means of identifying all documentation required by this chapter; and (2) describes how the owner or operator of a covered process will store, maintain and update all documentation required by this chapter.**	**40 CFR 68.15, N.J.A.C. 7:31-1.1(c)5i**	**2,000**	**4,000**	**10,000**
24.	**Failure to provide in the management system a means for recording the daily quantity of each extraordinarily hazardous substance (EHS) contained in storage vessels and shipping containers.**	**40 CFR 68.15, N.J.A.C. 7:31-1.1(c)5ii**	**2,000**	**4,000**	**10,000**
25.	**Failure to handle, use, manufacture generate or store an EHS in a manner which complies with the TCPA, N.J.A.C. 7:31 and/or the approved risk management program.**	**N.J.A.C. 7:31-1.9(a)**	**2,000**	**4,000**	**10,000**
26.	**Failure to pay an annual fee to the Department computed in accordance with N.J.A.C. 7:31-1.11A(b), (c) and (i) through (m), and billed and remitted in accordance with N.J.A.C. 7:31-1.11(f) through (h).**	**N.J.A.C. 7:31-1.11A(a)**	**one-third of fee**	**one-third of fee + 1,000**	**one-third of fee + 2,000**
27.	**Failure to authorize the insurance carrier to release information within 30 days from the written request of the Department. or Failure to require the insurance company to forward to the Department the requested information within 30 days of the receipt of the authorization to do so from the owner or operator.**	**N.J.A.C. 7:31-1.12(d)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
28.	Failure to prepare a worst-case release scenario analysis as provided in 40 CFR 68.25 incorporated at N.J.A.C. 7:31-2.1(a) and to complete the five-year accident history as provided in 40 CFR 68.42 incorporated at N.J.A.C. 7:31-2.1(a).	40 CFR 68.20, N.J.A.C. 7:31-2.1(c)1	2,000	4,000	10,000
29.	Failure to use the toxic endpoints provided in Appendix A of 40 CFR 68 for analyses of offsite consequences for toxic substances. or Failure to use the toxic endpoints determined by the Department in accordance with the criteria used by USEPA in developing 40 CFR 68 Appendix A for Table 1 Part A toxic substances not listed in Appendix A.	40 CFR 68.22(a)(1), N.J.A.C. 7:31-2.1(c)2	500	1,000	2,500
30.	Failure to use the endpoint of 1 psi for explosion for analyses of offsite consequences for flammable substances.	40 CFR 68.22(a)(2)(i), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
31.	Failure to use the endpoint of a radiant heat of 5 kw/m for 40 seconds for radiant heat/exposure time for analyses of offsite consequences for flammable substances.	40 CFR 68.22(a)(2)(ii), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
32.	Failure to use the endpoint of a lower flammability limit as provided in NFPA documents or other generally recognized sources for lower flammability limit for analyses of offsite consequences for flammable substances.	40 CFR 68.22(a)(2)(iii), N.J.A.C. 7:31-2.1(a)	500	1,000	5,000
33.	Failure to use a wind speed of 1.5 meters per second and F atmospheric stability class for the worst-case release analysis. Failure to demonstrate that local meteorological data applicable to the stationary source show a higher minimum wind speed or less stable atmosphere at all times during the previous three years when using these minimums.	40 CFR 68.22(b), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
34.	**Failure to use the highest daily maximum temperature in the previous three years and average humidity for the site, based on temperature/humidity data gathered at the stationary source or at a local meteorological station for worst-case release analysis of a regulated toxic substance.**	**40 CFR 68.22(c), N.J.A.C. 7:31-2.1(a)**	**500**	**1,000**	**2,500**
35.	**Failure to analyze the worst-case release of a regulated toxic substance assuming a ground level (0 feet) release. or Failure to use the correct release height as determined by the release scenario for an alternative scenario analysis of a regulated toxic substance.**	**40 CFR 68.22(d), N.J.A.C. 7:31-2.1(a)**	**500**	**1,000**	**2,500**
36.	**Failure to use either urban or rural topography, as appropriate.**	**40 CFR 68.22(e), N.J.A.C. 7:31-2.1(a)**	**500**	**1,000**	**2,500**
37.	**Failure to ensure that tables or models used for dispersion analysis of regulated toxic substances appropriately account for gas density.**	**40 CFR 68.22(f), N.J.A.C. 7:31-2.1(a)**	**500**	**1,000**	**2,500**
38.	**Failure to consider liquids other than gases, liquified only by refrigeration, to be released at the highest daily maximum temperature, based on data for the previous three years appropriate for the stationary source, or at process temperature, whichever is higher, for worst case. or Failure to consider substances to be released at a process or ambient temperature that is appropriate for the scenario for alternative scenarios.**	**40 CFR 68.22(g), N.J.A.C. 7:31-2.1(a)**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
39.	**Failure to analyze and report in the RMP for Program 2 and/or 3 processes one worst-case release scenario that is estimated to create the greatest distance in any direction to an endpoint provided in Appendix A of 40 CFR 68 resulting from an accidental release of regulated toxic substances from covered processes under worst-case conditions defined in 40 CFR 68.22 incorporated at N.J.A.C. 7:31-2.1(c).**	**40 CFR 68.25(a)(2)(i), N.J.A.C. 7:31-2.1(a)**	**4,000**	**8,000**	**20,000**
40.	**Failure to analyze and report in the RMP for Program 2 and/or 3 processes one worst-case release scenario that is estimated to create the greatest distance in any direction to an endpoint defined in 40 CFR 68.22(a) incorporated at N.J.A.C. 7:31-2.1(c) resulting from an accidental release of regulated flammable substances from covered processes under worst-case conditions defined in 40 CFR 68.22 incorporated at N.J.A.C. 7:31-2.1(c).**	**40 CFR 68.25(a)(2)(ii), N.J.A.C. 7:31-2.1(a)**	**4,000**	**8,000**	**20,000**
41.	**Failure to analyze and report in the RMP for Program 2 and/or 3 processes additional worst-case release scenarios for a hazard class if a worst-case release from another covered process at the stationary source potentially affects public receptors different from those potentially affected by the worst-case release scenario developed under paragraphs 40 CFR 68.25(a)(2)(i) or (a)(2)(ii) incorporated at N.J.A.C.7:31-2.1(a).**	**40 CFR 68.25(a)(2)(iii), N.J.A.C. 7:31-2.1(a)**	**4,000**	**8,000**	**20,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
42.	**Failure to use the worst-case release quantity which was the greater of the following: (1) For substances in a vessel, the greatest amount held in a single vessel, taking into account administrative controls that limit the maximum quantity; or (2) For substances in pipes, the greatest amount in a pipe, taking into account administrative controls that limit the maximum quantity.**	**40 CFR 68.25(b)(1)or(2), N.J.A.C. 7:31-2.1(a)**	**4,000**	**8,000**	**20,000**
43.	**Failure to assume that the quantity in the vessel or pipe, as determined under 40 CFR 68.25(b), incorporated at N.J.A.C. 7:31-2.1(a) is released as a gas over 10 minutes in the worst case release scenario for regulated toxic substances that are normally gases at ambient temperature and handled as a gas or as a liquid under pressure. or Failure to assume the release rate to be the total quantity divided by 10 unless passive mitigation systems are in place.**	**40 CFR 68.25(c)(1), N.J.A.C. 7:31-2.1(a)**	**4,000**	**8,000**	**20,000**
44.	**Failure to assume that the substance is released as a gas in 10 minutes for a released substance that is not contained by passive mitigation systems or that is in a contained pool that has a depth of 1 cm or less in the worst case release scenario for gases handled as refrigerated liquids at ambient pressure.**	**40 CFR 68.25(c)(2)(i), N.J.A.C. 7:31-2.1(a)**	**4,000**	**8,000**	**20,000**
45.	**Failure to calculate the volatilization rate (release rate) at the boiling point of the substance and at the conditions specified in 40 CFR 68.25(d) incorporated at N.J.A.C. 7:31-2.1(a).**	**40 CFR 68.25(c)(2)(ii), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
46.	**Failure to assume that the quantity in the vessel or pipe, as determined under 40 CFR 68.25(b), incorporated at N.J.A.C. 7:31-2.1(a), is spilled instantaneously to form a liquid pool in the worst case release scenario for regulated toxic substances that are normally liquids at ambient temperature.**	**40 CFR 68.25(d)(1), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
47.	**Failure to determine the surface area of the pool by assuming that the liquid spreads to 1 centimeter deep unless passive mitigation systems are in place that serve to contain the spill and limit the surface area in the worst case release scenario for regulated toxic substances that are normally liquids at ambient temperature. Failure to use the surface area of the contained liquid to calculate the volatilization rate where passive mitigation is in place.**	**40 CFR 68.25(d)(1)(i), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
48.	**Failure to take into account the actual surface characteristics where a release would occur onto a surface that is not paved or smooth in the worst case release scenario for regulated toxic substances that are normally liquids at ambient temperature.**	**40 CFR 68.25(d)(1)(ii), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
49.	**Failure to account for: 1) the highest daily maximum temperature occurring in the past three years, 2) the temperature of the substance in the vessel, or 3) the concentration of the substance for a liquid spilled as a mixture or solution, to calculate the volatilization rate in the worst case release scenario for regulated toxic substances that are normally liquids at ambient temperature.**	**40 CFR 68.25(d)(2), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
50.	**Failure to determine the rate of release to air from the volatilization rate of the liquid pool in the worst case release scenario for regulated toxic substances that are normally liquids at ambient temperature.** **or** **Failure to use the methodology in the RMP Offsite Consequence Analysis Guidance or any other publicly available techniques that account for the modeling conditions and are recognized by industry as applicable as part of current practices.** **or** **Failure to allow the implementing agency access to the model and to describe model features and differences from publicly available models to local emergency planners upon request when using a proprietary model that accounts for the modeling conditions,**	**40 CFR 68.25(d)(3), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
51.	**Failure to assume that the quantity of the substance, as determined under 40 CFR 68.25(b) through (i), incorporated at N.J.A.C. 7:31-2.1(a) vaporizes resulting in a vapor cloud explosion in the worst-case release scenario for flammable gases.** **or** **Failure to use a yield factor of 10 percent of the available energy released in the explosion to determine the distance to the explosion endpoint when the model used is based on TNT equivalent methods.**	**40 CFR 68.25(e), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
52.	**Failure to assume that the total quantity in the vessel or pipe, as determined under 40 CFR 68.25(b), incorporated at N.J.A.C. 7:31-2.1(a), is released as a gas over 10 minutes in the worst-case release scenario for flammable gases, for regulated flammable substances that are normally gases at ambient temperature and handled as a gas, or as a liquid under pressure, and is involved in the vapor cloud explosion.**	**40 CFR 68.25(e)(1), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
53.	**Failure to assume that the total quantity of the substance is released as a gas in 10 minutes, and the total quantity will be involved in the vapor cloud explosion for a released substance that is not contained by passive mitigation systems or for a contained pool that has a depth of one centimeter or less in the worst-case release scenario for flammable gases handled as refrigerated liquids at ambient pressure.**	**40 CFR 68.25(e)(2)(i), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
54.	**Failure to assume that the quantity in the vessel or pipe, as determined under 40 CFR 68.25(b), incorporated at N.J.A.C. 7:31-2.1(a), is spilled instantaneously to form a liquid pool in the worst-case release scenario, for a flammable gas handled as a refrigerated liquid at ambient pressure that is contained by passive mitigation systems in a pool with a depth greater than 1 centimeter.** **or** **Failure to calculate the volatilization rate (release rate) at the boiling point of the substance and at the conditions specified in 40 CFR 68.25(d) incorporated at N.J.A.C. 7:31-2.1(a).** **or** **Failure to assume that the quantity which becomes vapor in the first 10 minutes is involved in the vapor cloud explosion.**	**40 CFR 68.25(e)(2)(ii), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
55.	**Failure to assume that the quantity of the substance, as determined under 40 CFR 68.25(b) and (g) through (i), incorporated at N.J.A.C. 7:31-2.1(a), vaporizes resulting in a vapor cloud explosion, for the worst-case release scenario for flammable liquids. or Failure to use a yield factor of 10 percent of the available energy released in the explosion to determine the worst case release scenario distance to the explosion endpoint for a model used that is based on TNT equivalent methods.**	**40 CFR 68.25(f), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
56.	**Failure to assume that the entire quantity in the vessel or pipe, as determined under 40 CFR 68.25(b), incorporated at N.J.A.C. 7:31-2.1(a), is spilled instantaneously to form a liquid pool in the worst-case release scenario for regulated flammable substances that are normally liquids at ambient temperature. or Failure to calculate the volatilization rate at the conditions specified in 40 CFR 68.25(d) incorporated at N.J.A.C. 7:31-2.1(a) for liquids at temperatures below their atmospheric boiling point.**	**40 CFR 68.25(f)(1), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**120,000**
57.	**Failure to assume that the quantity which becomes vapor in the first 10 minutes is involved in the vapor cloud explosion in the worst-case release scenario for flammable liquids.**	**40 CFR 68.25(f)(2), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
58.	**Failure to use the parameters defined in 40 CFR 68.22 incorporated at N.J.A.C. at 7:31-2.1(c), to determine distance to the endpoints. or Failure to use the methodology provided in the RMP Offsite Consequence Analysis Guidance or any commercially or publicly available air dispersion modeling techniques that account for the modeling conditions and are recognized by industry as applicable as part of current practices. or Failure to allow the implementing agency access to the model and to describe model features and differences from publicly available models to local emergency planners upon request, when using a proprietary model that accounts for the modeling conditions.**	**40 CFR 68.25(g), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
59.	**Failure to perform an accurate worst case scenario analysis by considering a passive mitigation system that is not capable of withstanding the release event triggering the scenario and which would function as intended.**	**40 CFR 68.25(h), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
60.	**Failure to select a worst case scenario for flammable regulated substances or regulated toxic substances based on smaller quantities handled at a higher process temperature or pressure that would result in a greater distance to an endpoint defined in 40 CFR 68.22(a) incorporated at N.J.A.C. 7:31-2.1(c), beyond the stationary source boundary than the scenario provided under 40 CFR 68.25(b) incorporated at N.J.A.C. 7:31-2.1(a).**	**40 CFR 68.25(i)(1), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
61.	**Failure to select a worst case scenario for flammable regulated substances or regulated toxic substances based on proximity to the boundary of the stationary source that would result in a greater distance to an endpoint defined in 40 CFR 68.22(a) incorporated at N.J.A.C. 7:31-2.1(c), beyond the stationary source boundary than the scenario provided under 40 CFR 68.25(b) incorporated at N.J.A.C. 7:31-2.1(a).**	**40 CFR 68.25(i)(2), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
62.	**Failure to identify and analyze at least one alternative release scenario for each regulated toxic substance held in a covered process(es) and at least one alternative release scenario to represent all flammable substances held in a covered process(es).**	**40 CFR 68.28(a), N.J.A.C. 7:31-2.1(a)**	**4,000**	**8,000**	**20,000**
63.	**Failure to select a scenario that is more likely to occur than the worst-case release scenario under 40 CFR 68.25 incorporated at N.J.A.C. 7:31.2.1(a), for each alternative release scenario required under 40 CFR 68.28(a) incorporated at N.J.A.C. 7:31-2.1(a).**	**40 CFR 68.28(b)(1)(i), N.J.A.C. 7:31-2.1(a)**	**4,000**	**8,000**	**20,000**
64.	**Failure to select a scenario that will reach an endpoint offsite for an alternative release scenario required under 40 CFR 68.28(a) incorporated at N.J.A.C. 7:31-2.1(a).**	**40 CFR 68.28(b)(1)(ii), N.J.A.C. 7:31-2.1(a)**	**4,000**	**8,000**	**20,000**
65.	**Failure to consider alternative release scenarios such as those listed at 40 CFR 68.28(b)(2)(i-v) incorporated at N.J.A.C. 7:31-2.1.**	**40 CFR 68.28(b)(2)(i-v), N.J.A.C. 7:31-2.1(a)**	**4,000**	**8,000**	**20,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
66.	**Failure to use the appropriate parameters defined in 40 CFR 68.22 incorporated at N.J.A.C. 7:31-2.1(c) to determine distance to the endpoints in the analysis of alternative release scenarios. or Failure to use the methodology provided in the RMP Offsite Consequence Analysis Guidance or a commercially or publicly available air dispersion modeling technique that accounts for the specified modeling conditions and is recognized by industry as applicable as part of current practices. or Failure to allow the implementing agency access to a proprietary model that accounts for the modeling conditions and to describe model features and differences from publicly available models to local emergency planners upon request.**	**40 CFR 68.28(c), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
67.	**Failure to perform an accurate alternative release scenario analysis by considering active and passive mitigation systems that are not capable of withstanding the event that triggered the release or that are not functional.**	**40 CFR 68.28(d), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
68.	**Failure to consider the five-year accident history provided in 40 CFR 68.42 incorporated at N.J.A.C. 7:31-2.1(a) in selecting alternative release scenarios.**	**40 CFR 68.28(e)(1), N.J.A.C. 7:31-2.1(a)**	**4,000**	**8,000**	**20,000**
69.	**Failure to consider the failure scenarios identified under 40 CFR 68.50 incorporated at N.J.A.C. 7:31-3.1(c) or 40 CFR 68.67 incorporated at N.J.A.C 7:31-4.1(c) in selecting alternative release scenarios.**	**40 CFR 68.28(e)(2), N.J.A.C. 7:31-2.1(a)**	**4,000**	**8,000**	**20,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
70.	**Failure to estimate in the RMP the population within a circle with its center at the point of the release and a radius determined by the distance to the endpoint defined in 40 CFR 68.22(a) incorporated at N.J.A.C. 7:31-2.1(c).**	**40 CFR 68.30(a), N.J.A.C. 7:31-2.1(a)**	**500**	**1,000**	**2,500**
71.	**Failure to include residential population in the population estimate. or Failure to note the presence of institutions (schools, hospitals, prisons), parks and recreational areas, and major commercial, office, and industrial buildings in the RMP.**	**40 CFR 68.30(b), N.J.A.C. 7:31-2.1(a)**	**500**	**1,000**	**2,500**
72.	**Failure to use the most recent Census data or other updated information to estimate the population potentially affected.**	**40 CFR 68.30(c), N.J.A.C. 7:31-2.1(a)**	**500**	**1,000**	**2,500**
73.	**Failure to estimate population to two significant digits.**	**40 CFR 68.30(d), N.J.A.C. 7:31-2.1(a)**	**500**	**1,000**	**2,500**
74.	**Failure to list in the RMP environmental receptors within a circle with its center at the point of the release and a radius determined by the distance to the endpoint defined in 40 CFR 68.22(a) incorporated at N.J.A.C. 7:31-2.1(c).**	**40 CFR 68.33(a), N.J.A.C. 7:31-2.1(a)**	**500**	**1,000**	**2,500**
75.	**Failure to rely on information provided on local U.S. Geological Survey maps or on any data source containing U.S.G.S. data to identify environmental receptors.**	**40 CFR 68.33(b), N.J.A.C. 7:31-2.1(a)**	**500**	**1,000**	**2,500**
76.	**Failure to review and update the offsite consequence analyses at least once every five years.**	**40 CFR 68.36(a), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
77.	**Failure to complete a revised analysis within six months of a change in processes, quantities stored or handled, or any other aspect of the stationary source that might reasonably be expected to increase or decrease the distance to the endpoint by a factor of two or more and to submit a revised risk management plan as provided in 40 CFR 68.190 as incorporated at N.J.A.C. 7:31-7.1(c).**	**40 CFR 68.36(b), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
78.	**Failure to maintain records for the worst-case scenarios of the offsite consequence analyses that include a description of the vessel or pipeline and substance selected as worst case, assumptions and parameters used, and the rationale for selection.** **or** **Failure to describe for the worst case scenarios the use of administrative controls and passive mitigation that were assumed to limit the quantity that could be released.** **or** **Failure to include in the documentation of the worst case scenarios the anticipated effect of the controls and mitigation on the release quantity and rate.**	**40 CFR 68.39(a), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
79.	**Failure to maintain the records for alternative release scenarios of the offsite consequence analyses that include a description of the scenarios identified, assumptions and parameters used, and the rationale for the selection of specific scenarios. or Failure to include for the alternate release scenarios correct assumptions on the use of administrative controls and mitigations that were assumed to limit the quantity that could be released. or Failure to include in the documentation of scenario the effect of the controls and mitigation on the release quantity and rate.**	**40 CFR 68.39(b), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
80.	**Failure to maintain records on the offsite consequence analyses that include the documentation of estimated quantity released, release rate, and duration of release for offsite consequence analyses.**	**40 CFR 68.39(c), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
81.	**Failure to maintain records on the offsite consequence analyses that include the methodology used to determine distance to endpoints for offsite consequence analyses.**	**40 CFR 68.39(d), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**
82.	**Failure to maintain records on the offsite consequence analyses that include data used to estimate population and environmental receptors potentially affected for offsite consequence analyses.**	**40 CFR 68.39(e), N.J.A.C. 7:31-2.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
83.	Failure to include in the five-year accident history all accidental releases from covered processes that resulted in deaths, injuries, or significant property damage on site, or known offsite deaths, injuries, evacuations, sheltering in place, property damage, or environmental damage.	40 CFR 68.42(a), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000
84.	Failure to report the date, time, and approximate duration of the release for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(1), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
85.	Failure to report the chemical(s) released for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(2), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
86.	Failure to report the estimated quantity released in pounds for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(3), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000
87.	Failure to report the five- or six-digit NAICS code that most closely corresponds to the process for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(4), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
88.	Failure to report the type of release event and its source for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(5), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000
89.	Failure to report known weather conditions for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(6), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
90.	Failure to report the on-site impacts for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(7), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000
91.	Failure to report the known offsite impacts for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(8), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
92.	Failure to report the known initiating event and contributing factors for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(9), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000
93.	Failure to report whether offsite responders were notified when known for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(10), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
94.	Failure to report the operational or process changes that resulted from investigation of the release for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(11), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
95.	Failure to provide numerical estimates of at least two significant digits of the quantity of regulated substance released in the five-year accident history.	40 CFR 68.42(c), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000
96.	Failure to document a hazard assessment for a covered process in which an RHS or RHS Mixture is used, handled, or stored in accordance with 40 CFR 68 Subpart B as incorporated with changes at N.J.A.C. 7:31-2.1(c)1 and 2 and N.J.A.C. 7:31-2.2.	N.J.A.C. 7:31-2.2(a)	1,000	2,000	5,000
97.	Failure to consider the explosive flammability hazard of an RHS in the hazard assessment.	N.J.A.C. 7:31-2.2(a)1	500	1,000	2,500

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
98.	**Failure to report in the RMP the one worst-case scenario that is estimated to create the greatest distance in any direction to the endpoint for stationary sources that have multiple RHSs or RHS Mixtures in covered process(es). or Failure to report in the RMP additional worst-case release scenarios for stationary sources that have multiple RHSs or RHS Mixtures in covered process(es) if a worst-case release from another covered process at the stationary source potentially affects public receptors different from those potentially affected by the worst-case scenario with the greatest endpoint distance.**	**N.J.A.C. 7:31-2.2(a)2**	**4,000**	**8,000**	**20,000**
99.	**Failure to identify, analyze, and report in the hazard assessment at least one alternative release scenario to represent all RHSs or RHS Mixtures held in covered processes.**	**N.J.A.C. 7:31-2.2(a)3**	**4,000**	**8,000**	**20,000**
100.	**Failure to report in the RMP the RHS hazard assessment results in the RMP Offsite Consequence Analysis sections for flammable substances.**	**N.J.A.C. 7:31-2.2(a)4**	**2,000**	**4,000**	**10,000**
101.	**Failure to use the endpoints for flammables listed at 40 CFR 68.22(a)(2) as the endpoint parameter for the RHS hazard assessment.**	**N.J.A.C. 7:31-2.2(b)1**	**500**	**1,000**	**2,500**
102.	**Failure to use the greatest amount held in a single vessel, not taking into account administrative controls that limit the maximum quantity, as the worst case release quantity for the RHS hazard assessment.**	**N.J.A.C. 7:31-2.2(b)2**	**4,000**	**8,000**	**20,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
103.	Failure to use a TNT-equivalent explosion method or any commercially or publicly available explosion modeling techniques, provided the techniques account for the modeling conditions and are recognized by industry as applicable as part of current practices, for the RHS hazard assessment.	N.J.A.C. 7:31-2.2(b)3	4,000	8,000	20,000
104.	Failure to use the heat of combustion of the RHS or RHS Mixture when using a TNT-equivalent explosion method for the RHS hazard assessment.	N.J.A.C. 7:31-2.2(b)3i	4,000	8,000	20,000
105.	Failure to use a 100% yield factor for an RHS Mixture in a process vessel when using a TNT-equivalent explosion method for the RHS hazard assessment.	N.J.A.C. 7:31-2.2(b)3ii	4,000	8,000	20,000
106.	Failure to use a 28% yield factor for a Table I, Part D, Group I RHS in a storage vessel when using a TNT-equivalent explosion method for the RHS hazard assessment.	N.J.A.C. 7:31-2.2(b)3iii	4,000	8,000	20,000
107.	Failure to use all other parameters and calculation methods specified at 40 CFR 68 Subpart B as incorporated with changes at N.J.A.C. 7:31-2.1(c)1 and 2 as the parameters for the RHS hazard assessment.	N.J.A.C. 7:31-2.2(b)4	2,000	4,000	10,000
108.	Failure to include Material Safety Data Sheets that meet the requirements of 29 CFR 1910.1200(g) in the up-to-date safety information required to be compiled and maintained for the regulated substances, processes, and equipment.	40 CFR 68.48(a)(1), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
109.	**Failure to include the maximum intended inventory of equipment in which the regulated substances are stored or processed in the up-to-date safety information required to be compiled and maintained for the regulated substances, processes, and equipment.**	**40 CFR 68.48(a)(2), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**
110.	**Failure to include safe upper and lower temperatures, pressures, flows, and compositions in the up-to-date safety information required to be compiled and maintained for the regulated substances, processes, and equipment.**	**40 CFR 68.48(a)(3), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**
111.	**Failure to include equipment specifications in the up-to-date safety information required to be compiled and maintained for the regulated substances, processes, and equipment.**	**40 CFR 68.48(a)(4), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**
112.	**Failure to include codes and standards used to design, build, and operate the process in the up-to-date safety information required to be compiled and maintained for the regulated substances, processes, and equipment.**	**40 CFR 68.48(a)(5), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**
113.	**Failure to include process flow diagrams and piping and instrumentation diagrams in the up-to-date safety information required to be compiled and maintained for the regulated substances, processes, and equipment.**	**40 CFR 68.48(a), N.J.A.C. 7:31-3.1(c)1i**	**2,000**	**4,000**	**10,000**
114.	**Failure to include flash point up to 200°F (and method used), flammable limits (lower explosive limit and upper explosive limit), extinguishing media, special fire fighting procedures, and unusual fire and explosion hazards in the reactivity data applicable to the process in which an EHS is used, handled, stored or generated required to be compiled and maintained in the up-to-date-safety information for the regulated substances, processes, and equipment.**	**40 CFR 68.48(a), N.J.A.C. 7:31-3.1(c)1ii(1)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
115.	**Failure to include thermal and chemical stability information: stability (unstable or stable), conditions to avoid (for instability), incompatibility (materials to avoid), hazardous decomposition (products or byproducts), hazardous polymerization (may occur or will not occur), and conditions to avoid (for polymerization) in the reactivity data applicable to the process in which an EHS is used, handled, stored or generated required to be compiled and maintained in the up-to-date-safety information for the regulated substances, processes, and equipment.**	**40 CFR 68.48(a), N.J.A.C. 7:31-3.1(c)1ii(2)**	**2,000**	**4,000**	**10,000**
116.	**Failure to include thermodynamic and reaction kinetic data including: heat of reaction, temperature at which instability (uncontrolled reaction, decomposition, and/or polymerization) initiates, and energy release rate data in the reactivity data applicable to the process in which an EHS is used, handled, stored or generated required to be compiled and maintained in the up-to-date-safety information for the regulated substances, processes, and equipment.**	**40 CFR 68.48(a), N.J.A.C. 7:31-3.1(c)1ii(3)**	**2,000**	**4,000**	**10,000**
117.	**Failure to include incidental formation of byproducts that are reactive and unstable in the reactivity data applicable to the process in which an EHS is used, handled, stored or generated required to be compiled and maintained in the up-to-date-safety information for the regulated substances, processes, and equipment.**	**40 CFR 68.48(a), N.J.A.C. 7:31-3.1(c)1ii(4)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
118.	**Failure to include information showing the identity of potential toxic or flammable EHSs capable of being generated for individual RHSs listed at N.J.A.C. 7:31-6.3(a) Table I, Part D, Group I due to inadvertent mixing with incompatible substances, decomposition, and self-reaction in the reactivity data applicable to the process in which an EHS is used, handled, stored or generated required to be compiled and maintained in the up-to-date-safety information for the regulated substances, processes, and equipment.**	**40 CFR 68.48(a), N.J.A.C. 7:31-3.1(c)1ii(5)**	**2,000**	**4,000**	**10,000**
119.	**Failure to ensure that a process is designed in compliance with recognized and generally accepted good engineering practices. or Failure to comply with Federal or state regulations that address industry-specific safe design or industry-specific design codes and standards.**	**40 CFR 68.48(b), N.J.A.C. 7:31-3.1(a)**	**5,000**	**10,000**	**25,000**
120.	**Failure to update the safety information for a change to a covered process that made the safety information inaccurate.**	**40 CFR 68.48(c), N.J.A.C. 7:31-3.1(c)2**	**500**	**1,000**	**2,500**
121.	**Failure to conduct a hazard review that identifies the hazards associated with a regulated substance, process, or procedures.**	**40 CFR 68.50(a)(1), N.J.A.C. 7:31-3.1(a)**	**4,000**	**8,000**	**20,000**
122.	**Failure to conduct a hazard review that identifies the opportunities for equipment malfunctions or human errors that could cause an accidental release.**	**40 CFR 68.50(a)(2), N.J.A.C. 7:31-3.1(a)**	**4,000**	**8,000**	**20,000**
123.	**Failure to conduct a hazard review that identifies the safeguards used or needed to control a hazard or prevent equipment malfunction or human error.**	**40 CFR 68.50(a)(3), N.J.A.C. 7:31-3.1(a)**	**4,000**	**8,000**	**20,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
124.	**Failure to conduct a hazard review that identifies any steps used or needed to detect or monitor releases.**	**40 CFR 68.50(a)(4), N.J.A.C. 7:31-3.1(a)**	**4,000**	**8,000**	**20,000**
125.	**Failure to determine in a hazard review, by inspecting all equipment, whether the process is designed, fabricated, or operated in accordance with the applicable industry standards or Federal or state design rules, for processes designed to meet those standards or rules.**	**40 CFR 68.50(b), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**
126.	**Failure to document the results of a hazard review in a hazard review report prepared in accordance with N.J.A.C. 7:31-3.6 or ensure that problems identified are resolved in a timely manner.**	**40 CFR 68.50(c), N.J.A.C. 7:31-3.1(c)9**	**2,000**	**4,000**	**10,000**
127.	**Failure to update a hazard review at least once every five years.**	**40 CFR 68.50(d), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**
128.	**Failure to conduct a hazard review for a major change in a process.**	**40 CFR 68.50(d), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**
129.	**Failure to resolve all issues identified in the hazard review before startup of a changed process.**	**40 CFR 68.50(d), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**
130.	**Failure to prepare written operating procedures that provide clear instructions or steps for safely conducting activities associated with each covered process consistent with the safety information for that process. or Failure to write operating procedures in a manner and language that the EHS operators of a process are capable of understanding.**	**40 CFR 68.52(a); N.J.A.C. 7:31-3.1(c)3**	**4,000**	**8,000**	**20,000**
131.	**Failure to address initial startup in the operating procedures.**	**40 CFR 68.52(b)(1), N.J.A.C. 7:31-3.1(a)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
132.	**Failure to address normal operations in the operating procedures.**	**40 CFR 68.52(b)(2), N.J.A.C. 7:31-3.1(a)**	**1,000**	**2,000**	**5,000**
133.	**Failure to address temporary operations in the operating procedures.**	**40 CFR 68.52(b)(3), N.J.A.C. 7:31-3.1(a)**	**1,000**	**2,000**	**5,000**
134.	**Failure to address emergency shutdown and operations in the operating procedures.**	**40 CFR 68.52(b)(4), N.J.A.C. 7:31-3.1(a)**	**1,000**	**2,000**	**5,000**
135.	**Failure to address normal shutdown in the operating procedures.**	**40 CFR 68.52(b)(5), N.J.A.C. 7:31-3.1(a)**	**1,000**	**2,000**	**5,000**
136.	**Failure to address startup following a normal or emergency shutdown or a major change that requires a hazard review in the operating procedures.**	**40 CFR 68.52(b)(6), N.J.A.C. 7:31-3.1(a)**	**1,000**	**2,000**	**5,000**
137.	**Failure to address the consequences of deviations and steps required to correct or avoid deviations in the operating procedures.**	**40 CFR 68.52(b)(7), N.J.A.C. 7:31-3.1(a)**	**1,000**	**2,000**	**5,000**
138.	**Failure to address equipment inspections in the operating procedures.**	**40 CFR 68.52(b)(8), N.J.A.C. 7:31-3.1(a)**	**1,000**	**2,000**	**5,000**
139.	**Failure to ensure that the operating procedures were updated, if necessary, when a major change occurred and prior to startup of the changed process.**	**40 CFR 68.52(c), N.J.A.C. 7:31-3.1(a)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
140.	**Failure to ensure that each employee operating a process or each employee newly assigned to a covered process have been trained or tested competent in the operating procedures provided in 40 CFR 68.52 incorporated at N.J.A.C.7:31-3.1(a) that pertain to their duties. or Failure to certify in writing that the employee already operating a process on June 21, 1999 has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as provided in the operating procedures.**	**40 CFR 68.54(a), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**
141.	**Failure to provide refresher training at least every three years, and more often as necessary, to each employee operating a process to ensure that the employee understands and adheres to the current operating procedures of the process. or Failure to determine the appropriate frequency of refresher training in consultation with the employees operating the process.**	**40 CFR 68.54(b), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**
142.	**Failure to ensure that operators are trained in updated or new procedures prior to startup of a process after a major change.**	**40 CFR 68.54(d), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**
143.	**Failure to prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment.**	**40 CFR 68.56(a), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
144.	**Failure to train or cause to be trained each employee involved in maintaining the on-going mechanical integrity of a process. or Failure to train each such employee in the hazards of the process, in how to avoid or correct unsafe conditions, and in the procedures applicable to the employee's job tasks to ensure that the employee can perform the job tasks in a safe manner.**	**40 CFR 68.56(b), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**
145.	**Failure to require a maintenance contractor to ensure that each contract maintenance employee is trained to perform the maintenance procedures developed under 40 CFR 68.56(a) incorporated at N.J.A.C. 7:31-3.1(a).**	**40 CFR 68.56(c), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**
146.	**Failure to perform or cause to be performed inspections and tests on process equipment. or Failure to follow recognized and generally accepted good engineering practices when performing inspection and testing procedures. or Failure to make the frequency of inspections and tests of process equipment consistent with applicable manufacturers' recommendations, industry standards or codes, good engineering practices, or prior operating experience.**	**40 CFR 68.56(d), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
147.	**Failure to conduct a compliance audit and certify at least every three years that compliance with the provisions of 40 CFR 40 Subpart C as incorporated at N.J.A.C. 7:31-3 has been evaluated in order to verify that the procedures and practices developed under the rule are adequate and are being followed. or Failure to verify that the process technology and equipment, as built and operated, are in accordance with the safety information prepared pursuant to 40 CFR 68.48(a) and (b) as incorporated with changes at N.J.A.C. 7:31-3.1(c)1.**	**40 CFR 68.58(a), N.J.A.C. 7:31-3.1(c)5**	**5,000**	**10,000**	**25,000**
148.	**Failure to conduct a compliance audit with at least one person knowledgeable in the process.**	**40 CFR 68.58(b), N.J.A.C. 7:31-3.1(a)**	**1,000**	**2,000**	**5,000**
149.	**Failure to develop a report of the audit findings that includes the scope, audit techniques, methods used or the names of the audit participants.**	**40 CFR 68.58(c), N.J.A.C. 7:31-3.1(c)6**	**1,000**	**2,000**	**5,000**
150.	**Failure to promptly determine and document an appropriate response to each of the findings of a compliance audit or document that deficiencies found during the audit have been corrected. or Failure to prepare and include in the compliance audit report a written schedule for the implementation of corrective actions or state that such actions have been completed.**	**40 CFR 68.58(d), N.J.A.C. 7:31-3.1(c)10**	**1,000**	**2,000**	**5,000**
151.	**Failure to retain the two (2) most recent compliance audit reports.**	**40 CFR 68.58(e), N.J.A.C. 7:31-3.1(a)**	**1,000**	**2,000**	**5,000**
152.	**Failure to investigate each EHS accident or potential catastrophic event.**	**40 CFR 68.60(a), N.J.A.C. 7:31-3.1(c)7**	**5,000**	**10,000**	**25,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
153.	**Failure to initiate an EHS accident or potential catastrophic event investigation as promptly as possible, but not later than 48 hours following the incident.**	**40 CFR 68.60(b), N.J.A.C. 7:31-3.1(c)8**	**1,000**	**2,000**	**5,000**
154.	**Failure to prepare a summary at the conclusion of an investigation which includes the date of an EHS accident or potential catastrophic event.**	**40 CFR 68.60(c)(1), N.J.A.C. 7:31-3.1(c)8**	**1,000**	**2,000**	**5,000**
155.	**Failure to prepare a summary at the conclusion of an investigation of an EHS accident or potential catastrophic event which includes the date the investigation began.**	**40 CFR 68.60(c)(2), N.J.A.C. 7:31-3.1(c)7**	**1,000**	**2,000**	**5,000**
156.	**Failure to prepare a summary at the conclusion of an investigation which includes a description of the EHS accident or potential catastrophic event.**	**40 CFR 68.60(c)(3), N.J.A.C. 7:31-3.1(c)8**	**1,000**	**2,000**	**5,000**
157.	**Failure to prepare a summary at the conclusion of an investigation of an EHS accident or potential catastrophic event which includes the factors that contributed to the EHS accident or potential catastrophic event.**	**40 CFR 68.60(c)(4), N.J.A.C. 7:31-3.1(c)8**	**1,000**	**2,000**	**5,000**
158.	**Failure to prepare a summary at the conclusion of an EHS accident or potential catastrophic event investigation which includes any recommendations resulting from the investigation.**	**40 CFR 68.60(c)(5), N.J.A.C. 7:31-3.1(a)**	**1,000**	**2,000**	**5,000**
159.	**Failure to promptly address and resolve the EHS accident or potential catastrophic event investigation findings and recommendations. or Failure to document the resolutions and corrective actions of an EHS accident or potential catastrophic event investigation.**	**40 CFR 68.60(d), N.J.A.C. 7:31-3.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
160.	Failure to review the findings of an EHS accident or potential catastrophic event investigation with all affected personnel whose job tasks are affected by the findings.	40 CFR 68.60(e), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
161.	Failure to retain EHS accident or potential catastrophic event investigation summaries for five years.	40 CFR 68.60(f), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000
162.	Failure to comply with the emergency response requirements of N.J.A.C. 7:31-5.	N.J.A.C. 7:31-3.2(a)	2,000	4,000	10,000
163.	Failure to submit within 90 days of the third anniversary date, and each subsequent third anniversary date, a triennial report to the Department reflecting the risk management program activities for the 36 month period ending on the anniversary date.	N.J.A.C. 7:31-3.3(a)	2,000	4,000	10,000
164.	Failure to include in the triennial report an update of the supplemental TCPA program information as specified in N.J.A.C. 7:31-7.2(a)2 if this supplemental information was not previously reported in a revised Risk Management Plan submittal. or Failure to state that there were no changes to the supplemental TCPA program information in the triennial report if there were no changes in this information since the last Risk Management Plan submittal.	N.J.A.C. 7:31-3.3(b)1	500	1,000	2,500
165.	Failure to include in the triennial report a description of significant changes to the management system. or Failure to state that there were no changes to the management system in the triennial report if there were no changes in this information since the last triennial report.	N.J.A.C. 7:31-3.3(b)2	500	1,000	2,500

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
166.	**Failure to include in the triennial report the hazard review report required at N.J.A.C. 7:31-3.5 for each hazard review completed during the previous three years. or Failure to state that there were no hazard review reports completed in the triennial report if there were no hazard review reports completed since the last triennial report.**	**N.J.A.C. 7:31-3.3(b)3**	**500**	**1,000**	**2,500**
167.	**Failure to include in the triennial report a summary of any EHS accidents that occurred during the previous three years including the EHS involved and amount released if these facts could have been reasonably determined based on the information obtained through an investigation.**	**N.J.A.C. 7:31-3.3(b)4i**	**500**	**1,000**	**2,500**
168.	**Failure to include in the triennial report a summary of any EHS accidents that occurred during the previous three years that including the date and time of the EHS accident and identification of EHS equipment involved.**	**N.J.A.C. 7:31-3.3(b)4ii**	**500**	**1,000**	**2,500**
169.	**Failure to include in the triennial report a summary of any EHS accidents that occurred during the previous three years that including the basic and contributory causes.**	**N.J.A.C. 7:31-3.3(b)4iii**	**500**	**1,000**	**2,500**
170.	**Failure to include in the triennial report a summary of any EHS accidents that occurred during the previous three years that including a statement that there were no EHS accidents if no EHS accidents occurred since the last triennial report.**	**N.J.A.C. 7:31-3.3(b)4iv**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
171.	**Failure to include in the triennial report the compliance audit report and documentation for the previous three years ending on the anniversary date prepared pursuant to 40 CFR 68.58(c) and (d) as incorporated with changes at N.J.A.C. 7:31-3.1(c)6 and 10.**	**N.J.A.C. 7:31-3.3(b)5**	**500**	**1,000**	**2,500**
172.	**Failure to submit the documentation required at N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c) at least 90 days prior to construction of a new Program 2 covered process at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-3.4(a)(1)**	**2,000**	**4,000**	**10,000**
173.	**Failure to receive written approval from the Department before proceeding with construction of a new Program 2 covered process at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-3.4(a)(2)**	**6,000**	**12,000**	**30,000**
174.	**Failure to submit to the Department, at least 90 days prior to the date the equipment was scheduled to be placed into EHS service, updates of the documentation as required by N.J.A.C. 7:31-3.4(a) 1 on a new Program 2 covered process at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-3.4(a)(3)**	**2,000**	**4,000**	**10,000**
175.	**Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11A for a new Program 2 covered process at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-3.4(a)(4)**	**one-third of fee**	**One-third of fee + 1000**	**One-third of fee + 2000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
176.	**Failure to submit the documentation required by N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c) at least 90 days prior to placing existing equipment for a new Program 2 covered process into EHS service at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-3.4(b)(1)**	**2,000**	**4,000**	**10,000**
177.	**Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11A for a new Program 2 covered process at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-3.4(b)(2)**	**one-third of fee**	**one-third of fee + 1000**	**One-third of fee + 2000**
178.	**Failure to update documentation in accordance with N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c) at least 90 days prior to the scheduled placing of existing equipment for a new Program 2 covered process into EHS service at a stationary source that has a previously approved risk management program.**	**N.J.A.C. 7:31-3.4(c)(1)**	**2,000**	**4,000**	**10,000**
179.	**Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11A for a new Program 2 covered process at a stationary source that has a previously approved risk management program.**	**N.J.A.C. 7:31-3.4(c)(2)**	**one-third of fee**	**one-third of fee + 1000**	**One-third of fee + 2000**
180.	**Failure to enter into a consent agreement or consent agreement addendum with the Department prior to placing equipment into EHS service for a new covered process and subsequent to a stationary source inspection by the Department. or Failure to complete items of the consent agreement, or consent agreement addendum, for equipment in a new covered process in accordance with the schedule in the consent agreement or consent agreement addendum.**	**N.J.A.C. 7:31-3.4(d)**	**5,000**	**10,000**	**25,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
181.	**Failure to prepare a hazard review report which includes identification of the covered process.**	**N.J.A.C. 7:31-3.5(a)1**	**500**	**1,000**	**2,500**
182.	**Failure to prepare a hazard review report which includes the date the hazard review was performed.**	**N.J.A.C. 7:31-3.5(a)2**	**500**	**1,000**	**2,500**
183.	**Failure to prepare a hazard review report which includes the date of the completed hazard review report.**	**N.J.A.C. 7:31-3.5(a)3**	**500**	**1,000**	**2,500**
184.	**Failure to prepare a hazard review report which includes the names and affiliation of the hazard review participants.**	**N.J.A.C. 7:31-3.5(a)4**	**500**	**1,000**	**2,500**
185.	**Failure to prepare a hazard review report which includes documentation of the hazards associated with the process and regulated substances.**	**N.J.A.C. 7:31-3.5(a)5**	**500**	**1,000**	**2,500**
186.	**Failure to prepare a hazard review report which includes documentation of the opportunities for equipment malfunctions or human errors that could cause an accidental release.**	**N.J.A.C. 7:31-3.5(a)6**	**500**	**1,000**	**2,500**
187.	**Failure to prepare a hazard review report which includes documentation of the safeguards used or needed to control the hazards or prevent equipment malfunction or human error.**	**N.J.A.C. 7:31-3.5(a)7**	**500**	**1,000**	**2,500**
188.	**Failure to prepare a hazard review report which includes documentation of any steps used or needed to detect or monitor releases.**	**N.J.A.C. 7:31-3.5(a)8**	**500**	**1,000**	**2,500**
189.	**Failure to prepare a hazard review report which includes documentation on the implementation of recommended corrective actions including a schedule for such implementations and the resolution and status for completing the corrective actions.**	**N.J.A.C. 7:31-3.5(a)9**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
190.	**Failure to retain all hazard review reports and documentation for the life of the covered process.**	**N.J.A.C. 7:31-3.5(b)**	**2,000**	**4,000**	**10,000**
191.	**Failure to complete a compilation of written process safety information before conducting any required process hazard analysis in accordance with the schedule set forth in 40 CFR 68.67 as incorporated at N.J.A.C. 7:31-4.1(c)6.**	**40 CFR 68.65(a), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
192.	**Failure to include toxicity information in the process safety information pertaining to the hazards of the regulated substances in a process.**	**40 CFR 68.65(b)(1), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
193.	**Failure to include permissible exposure limits in the process safety information pertaining to the hazards of the regulated substances in a process.**	**40 CFR 68.65(b)(2), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
194.	**Failure to include physical data in the process safety information pertaining to the hazards of the regulated substances in a process.**	**40 CFR 68.65(b)(3), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
195.	**Failure to provide in the process safety information reactivity data including the flash point up to 200°F (and method used), flammable limits (lower explosive limit and upper explosive limit), extinguishing media, special fire fighting procedures, or unusual fire and explosion hazards.**	**40 CFR 68.65(b)(4), N.J.A.C. 7:31-4.1(c)24i**	**500**	**1,000**	**2,500**
196.	**Failure to provide in the process safety information reactivity data including the following thermodynamic and reaction kinetic data: heat of reaction, temperature at which instability (uncontrolled reaction, decomposition, and/or polymerization) initiates, and energy release rate data.**	**40 CFR 68.65(b)(4), N.J.A.C. 7:31-4.1(c)24ii**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
197.	Failure to provide in the process safety information reactivity data including the incidental formation of byproducts that are reactive and unstable.	40 CFR 68.65(b)(4), N.J.A.C. 7:31-4.1(c)24iii	500	1,000	2,500
198.	Failure to include corrosivity data in the process safety information pertaining to the hazards of the regulated substances in the process.	40 CFR 68.65(b)(5), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500
199.	Failure to provide in the process safety information thermal and chemical stability data including stability (unstable or stable), conditions to avoid (for instability), incompatibility (materials to avoid), hazardous decomposition (products or byproducts), hazardous polymerization (may occur or will not occur), and conditions to avoid (for polymerization).	40 CFR 68.65(b)(6), N.J.A.C. 7:31-4.1(c)25	500	1,000	2,500
200.	Failure to provide in the process safety information hazardous effects of inadvertent mixing of different materials that could foreseeably occur including the explosive/flammable effects and information showing the identity of potential toxic or flammable EHSs capable of being generated for individual RHSs listed at N.J.A.C. 7:31-6.3(a) Table I, Part D, Group I due to inadvertent mixing with incompatible substances, decomposition, and self-reaction.	40 CFR 68.65(b)(7), N.J.A.C. 7:31-4.1(c)26	500	1,000	2,500
201.	Failure to include a block flow diagram or process flow diagram in the process safety information pertaining to the technology of the process.	40 CFR 68.65(c)(1)(i), N.J.A.C. 7:31-4.1(c)(1)	500	1,000	2,500
202.	Failure to include process chemistry in the process safety information pertaining to the technology of the process.	40 CFR 68.65(c)(1)(ii), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
203.	**Failure to include maximum intended inventory in the process safety information pertaining to the technology of the process.**	**40 CFR 68.65(c)(1)(iii), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
204.	**Failure to include safe upper and lower limits for such items as temperatures, pressures, flows or compositions in the process safety information pertaining to the technology of the process.**	**40 CFR 68.65(c)(1)(iv), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
205.	**Failure to include an evaluation of the consequences of deviations in the process safety information pertaining to the technology of the process.**	**40 CFR 68.65(c)(1)(v), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
206.	**Failure to develop technical information in conjunction with the process hazard analysis in sufficient detail to support the analysis when the original technical information no longer exists.**	**40 CFR 68.65(c)(2), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
207.	**Failure to include equipment specifications including materials of construction in the process safety information pertaining to the equipment in the process.**	**40 CFR 68.65(d)(1)(i), N.J.A.C. 7:31-4.1(c)(2)**	**500**	**1,000**	**2,500**
208.	**Failure to include piping and instrument diagrams (P&ID's) in the process safety information pertaining to the equipment in the process.**	**40 CFR 68.65(d)(1)(ii), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
209.	**Failure to include electrical classification in the process safety information pertaining to the equipment in the process.**	**40 CFR 68.65(d)(1)(iii), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
210.	**Failure to include relief system design and design basis in the process safety information pertaining to the equipment in the process.**	**40 CFR 68.65(d)(1)(iv), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
211.	**Failure to include ventilation system design in the process safety information pertaining to the equipment in the process.**	**40 CFR 68.65(d)(1)(v), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
212.	**Failure to include design codes and standards employed in the process safety information pertaining to the equipment in the process.**	**40 CFR 68.65(d)(1)(vi), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
213.	**Failure to include material and energy balances for processes built after June 21, 1999 in the process safety information pertaining to the equipment in the process.**	**40 CFR 68.65(d)(1)(vii), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
214.	**Failure to include safety systems (e.g. interlocks, detection or suppression systems) in the process safety information pertaining to the equipment in the process.**	**40 CFR 68.65(d)(1)(viii), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
215.	**Failure to include electrical one-line diagrams relevant to the covered process and its potential releases in the process safety information pertaining to the equipment in the process.**	**40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3i**	**500**	**1,000**	**2,500**
216.	**Failure to include a site plan in the process safety information pertaining to the equipment in the process.**	**40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3ii**	**500**	**1,000**	**2,500**
217.	**Failure to include firewater system piping diagrams relevant to the covered process and its potential releases in the process safety information pertaining to the equipment in the process.**	**40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3iii**	**500**	**1,000**	**2,500**
218.	**Failure to include sewer system piping diagrams relevant to the covered process and its potential releases in the process safety information pertaining to the equipment in the process.**	**40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3iv**	**500**	**1,000**	**2,500**
219.	**Failure to include external forces and events data in the process safety information pertaining to the equipment in the process.**	**40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3v**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
220.	**Failure to document that the equipment complies with recognized and generally accepted good engineering and operating practices.**	**40 CFR 68.65(d)(2), N.J.A.C. 7:31-4.1(c)4**	**500**	**1,000**	**2,500**
221.	**Failure to determine and document that existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in general use, is designed, maintained, inspected, tested, and operating in a safe manner.**	**40 CFR 68.65(d)(3), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
222.	**Failure to perform an initial process hazard analysis (PHA) with risk assessment (hazard evaluation) on processes covered by 40 CFR 68 Subpart D as incorporated at N.J.A.C. 7:31-4.1. or Failure to perform a PHA with risk assessment appropriate to the complexity of the process and to identify, evaluate, and control the hazards involved in the process. or Failure to determine and document the priority order for conducting PHA's with risk assessments based on a rationale which includes such considerations as extent of the process hazards, number of potentially affected employees and offsite public, age of the process, and operating history of the process.**	**40 CFR 68.67(a), N.J.A.C. 7:31-4.1(c)6**	**5,000**	**10,000**	**25,000**
223.	**Failure to use one or more of the methodologies listed at 40 CFR 68.67b(1)-(7) incorporated at N.J.A.C. 7:31-4.1(a) to determine and evaluate the hazards of the process being analyzed.**	**40 CFR 68.67(b)(1)-(7), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
224.	**Failure to address the hazards of the process in the process hazard analysis.**	**40 CFR 68.67(c)(1), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
225.	**Failure to address the identification of any previous incident which had a likely potential for catastrophic consequences in the process hazard analysis.**	**40 CFR 68.67(c)(2), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
226.	**Failure to address in the process hazard analysis the engineering and administrative controls applicable to the hazards and their interrelationships such as appropriate application of detection methodologies to provide early warning of releases.**	**40 CFR 68.67(c)(3), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
227.	**Failure to address consequences of failure of engineering and administrative controls in the process hazard analysis.**	**40 CFR 68.67(c)(4), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
228.	**Failure to address stationary source siting in the process hazard analysis.**	**40 CFR 68.67(c)(5), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
229.	**Failure to address human factors in the process hazard analysis.**	**40 CFR 68.67(c)(6), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
230.	**Failure to address in the process hazard analysis a qualitative evaluation of a range of the possible safety and health effects of failure of controls.**	**40 CFR 68.67(c)(7), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
231.	**Failure to perform the process hazard analysis using a team with expertise in engineering and process operations which includes at least one employee who has experience and knowledge specific to the process being evaluated.** **or** **Failure to perform the process hazard analysis using a team with at least one member who is knowledgeable in the specific process hazard analysis methodology being used.**	**40 CFR 68.67(d), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
232.	**Failure to establish a system to promptly address the process hazard analysis team's findings and recommendations.** **or** **Failure to assure that the process hazard analysis team's recommendations are resolved in a timely manner or that the resolution is documented.** **or** **Failure to document what actions are to be taken to resolve the process hazard analysis recommendations.** **or** **Failure to complete actions required by the process hazard analysis recommendations as soon as possible.** **or** **Failure to develop a written schedule of when actions recommended in the process hazard analysis are to be completed.** **or** **Failure to communicate the actions recommended in the process hazard analysis to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.**	**40 CFR 68.67(e), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
233.	**Failure to update and revalidate the process hazard analysis (with risk assessment) at least every five (5) years after the completion of the initial process hazard analysis (with risk assessment) using a team meeting the requirements in 40 CFR 68.67(d) as incorporated at N.J.A.C. 7:31-4.1(c)7 to assure that the process hazard analysis with risk assessment is consistent with the current process.**	**40 CFR 68.67(f), N.J.A.C. 7:31-4.1(c)7**	**4,000**	**5,000**	**20,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
234.	**Failure to retain process hazards analyses and updates or revalidations for each covered process, as well as the documented resolution of recommendations described in 40 CFR 68.67(e) as incorporated at N.J.A.C. 7:31-4.1(a) for the life of the process.**	**40 CFR 68.67(g), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
235.	**Failure to perform a process hazard analysis with risk assessment.**	**N.J.A.C. 7:31-4.2(b)**	**5,000**	**10,000**	**25,000**
236.	**Failure to perform a process hazard analysis with risk assessment which includes the following: 1) identification of EHS equipment subject to the assessment, 2) the points of possible EHS release, 3) the corresponding approximate quantity of an instantaneous EHS release or the rate(s) and duration of a continuing EHS release, either steady or non-steady state, or 4) the corresponding cause of the EHS release. or Failure to base estimates of the quantity or rate and duration of a release on actual release mechanisms that reflect the operating procedures, safeguards, and mitigation equipment and procedures planned for new or modified covered processes or in place for existing covered processes.**	**N.J.A.C. 7:31-4.2(b)1**	**5,000**	**10,000**	**25,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
237.	**Failure to include in the process hazard analysis with risk assessment consideration of toxicity, flammability and reactivity for EHSs which appear in N.J.A.C. 7:31-6.3(a), Table I, Parts A and/or B as a toxic substance, Part C as a flammable substance and Part D as a Reactive Hazard Substance. or Failure to consider in the process hazard analysis with risk assessment both the explosive/flammability hazard and the capability to generate a toxic EHS, as applicable to the RHS or RHS Mixture and process in which it is handled, for RHSs or RHS Mixtures identified and listed at N.J.A.C. 7:31-6.3(a) Table I, Part D, Groups I and II.**	**N.J.A.C. 7:31-4.2(b)2**	**5,000**	**10,000**	**25,000**
238.	**Failure to identify all scenarios of toxic, flammable, and reactive hazards that have a potential offsite impact for the endpoint criteria defined at N.J.A.C. 7:31-4.2(b)3iii and iv using a consequence analysis consisting of dispersion analysis, thermal analysis or overpressure analysis.**	**N.J.A.C. 7:31-4.2(b)3**	**2,000**	**4,000**	**10,000**
239.	**Failure to use the parameters of 1.5 meters per second wind speed and F atmospheric stability class for the consequence analysis of a process in the process hazard analysis with risk assessment.**	**N.J.A.C. 7:31-4.2(b)3i**	**2,000**	**4,000**	**10,000**
240.	**Failure to use all parameters listed for alternative scenarios at 40 CFR 68.22(c) through (g) for the consequence analysis of a process in the process hazard analysis with risk assessment.**	**N.J.A.C. 7:31-4.2(b)3ii**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
241.	**Failure to use the appropriate parameters for the consequence analysis in the process hazard analysis with risk assessment for the scenario being analyzed: the endpoint criteria of ten (10) times the toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2 or the value of five (5) times the Acute Toxicity Concentration (ATC); 1750 thermal dose units (equivalent to 17 kW/m2 for 40 seconds); 5 psi overpressure; or the lower flammability limit.**	**N.J.A.C. 7:31-4.2(b)3iii**	**2,000**	**4,000**	**10,000**
242.	**Failure to use the appropriate parameters for the consequence analysis of the process hazard analysis with risk assessment for the scenario being analyzed: the endpoint criteria of five (5) times the toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2 or the value of the ATC; 1200 thermal dose units (equivalent to 15 kW/m2 for 40 seconds); or 2.3 psi overpressure.**	**N.J.A.C. 7:31-4.2(b)3iv**	**2,000**	**4,000**	**10,000**
243.	**Failure to perform an evaluation of state of the art, including alternative processes, procedures or equipment, which would reduce the likelihood or consequences of an EHS release, for each release scenario that has an offsite impact of the endpoint criteria specified at N.J.A.C. 7:31-4.2(b)3iii.**	**N.J.A.C. 7:31-4.2(c)1**	**2,000**	**4,000**	**10,000**
244.	**Failure to perform an evaluation of state of the art, including alternative processes, procedures or equipment which would reduce the likelihood or consequences of an EHS release for each release scenario that has an offsite impact of the endpoint criteria specified at N.J.A.C. 7:31-4.2(b)3iv** **or** **Failure to determine whether the likelihood of release occurrence is greater than or equal to 10^{-4} per year.**	**N.J.A.C. 7:31-4.2(c)2**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
245.	**Failure to develop a risk reduction plan for release scenarios requiring a state of the art evaluation or Failure to utilize in the risk reduction plan state of the art risk reduction measures which will reduce the likelihood or consequence of the release.**	**N.J.A.C. 7:31-4.2(c)3**	**2,000**	**4,000**	**10,000**
246.	**Failure to maintain documentation from the process hazard analysis with risk assessment including a table(s) setting forth the process hazard analysis results giving the release point and corresponding release scenario of the potential basic (initiating) and intermediate event sequences, the corresponding estimated quantity or rate and duration of releases, and the recommended resolution action based upon 40 CFR 68.67(e).**	**N.J.A.C. 7:31-4.2(d)1**	**2,000**	**4,000**	**10,000**
247.	**Failure to maintain documentation from the process hazard analysis with risk assessment including table(s) summarizing each potential offsite release scenario identified including the scenario identification number and brief description.**	**N.J.A.C. 7:31-4.2(d)2i**	**2,000**	**4,000**	**10,000**
248.	**Failure to maintain documentation from the process hazard analysis with risk assessment including table(s) summarizing each potential offsite release scenario identified including the rate and duration, or quantity, of potential release.**	**N.J.A.C. 7:31-4.2(d)2ii**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
249.	**Failure to maintain documentation from the process hazard analysis with risk assessment including table(s) summarizing each potential offsite release scenario identified including the distance to the endpoint determined in N.J.A.C. 7:31-4.2(b)3iii and (b)3iv and the respective distance to the nearest property line.**	**N.J.A.C. 7:31-4.2(d)2iii**	**2,000**	**4,000**	**10,000**
250.	**Failure to maintain documentation from the process hazard analysis with risk assessment including table(s) summarizing each potential offsite release scenario identified including the release likelihood determined pursuant to N.J.A.C. 7:31-4.2(c).**	**N.J.A.C. 7:31-4.2(d)2iv**	**2,000**	**4,000**	**10,000**
251.	**Failure to maintain documentation from the process hazard analysis with risk assessment containing dispersion modeling information that identifies the dispersion model used.**	**N.J.A.C. 7:31-4.2(d)3i**	**2,000**	**4,000**	**10,000**
252.	**Failure to maintain documentation from the process hazard analysis with risk assessment containing dispersion modeling information that includes printouts of the dispersion model inputs and outputs for a dispersion model other than the lookup tables provided in the USEPA's RMP Offsite Consequence Analysis Guidance current as of the time the modeling was performed.**	**N.J.A.C. 7:31-4.2(d)3ii**	**2,000**	**4,000**	**10,000**
253.	**Failure to maintain documentation from the process hazard analysis with risk assessment including an explanation as to why any risk reduction measures identified in N.J.A.C. 7:31-4.2(c) and (d)1 have not been included in the risk reduction plan.**	**N.J.A.C. 7:31-4.2(d)4**	**2,000**	**4,000**	**10,000**
254.	**Failure to maintain documentation from the process hazard analysis with risk assessment including the resolution of the risk reduction measures in the risk reduction plan.**	**N.J.A.C. 7:31-4.2(d)5**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
255.	**Failure to prepare a report of the process hazard analysis with risk assessment that includes an identification of the covered process that is the subject of the process hazard analysis with risk assessment; the name, position and affiliation of persons who performed the process hazard analysis with risk assessment; the date of completion; or the methodology used.**	**N.J.A.C. 7:31-4.2(e)1**	**2,000**	**4,000**	**10,000**
256.	**Failure to prepare a report of the process hazard analysis with risk assessment that includes a description of each scenario identified in N.J.A.C. 7:31-4.2(b)3iii and iv.**	**N.J.A.C. 7:31-4.2(e)2**	**2,000**	**4,000**	**10,000**
257.	**Failure to prepare a report of the process hazard analysis with risk assessment that includes the risk reduction plan developed pursuant to N.J.A.C. 7:31-4.2(c)3 and (d)1.**	**N.J.A.C. 7:31-4.2(e)3**	**2,000**	**4,000**	**10,000**
258.	**Failure to use either the property boundary of the industrial complex or the property boundary for the individual stationary source for the purpose of identifying release scenarios with offsite impact at a stationary source that is part of an industrial complex as defined at N.J.A.C. 7:31-1.5.**	**N.J.A.C. 7:31-4.2(f)**	**500**	**1,000**	**2,500**
259.	**Failure to evaluate inherently safer technology for new covered processes in addition to performing the state of the art evaluation pursuant to N.J.A.C. 7:31-4.2(c)1, 2i, and 2ii. or Failure to document recommendations from the inherently safer technology evaluation in accordance with N.J.A.C. 7:31-4.2(c), (d), and (e) for a new covered process.**	**N.J.A.C. 7:31-4.2(g)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
260.	**Failure to develop and implement written operating procedures consistent with the process safety information that provide clear instructions for safely conducting activities involved in the covered process. or Failure to write the operating procedures in a manner and language that the EHS operators of a process are capable of understanding.**	**40 CFR 68.69(a), N.J.A.C. 7:31-4.1(c)8**	**4,000**	**8,000**	**20,000**
261.	**Failure to address in the written operating procedures steps for each operating phase including initial startup.**	**40 CFR 68.69(a)(1)i N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
262.	**Failure to address in the written operating procedures steps for each operating phase including normal operations.**	**40 CFR 68.69(a)(1)(ii), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
263.	**Failure to address in the operating written procedures steps for each operating phase including temporary operations.**	**40 CFR 68.69(a)(1)(iii), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
264.	**Failure to address in the written operating procedures steps for emergency shutdown including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner.**	**40 CFR 68.69(a)(1)(iv), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
265.	**Failure to address in the written operating procedures steps for each operating phase including emergency operations.**	**40 CFR 68.69(a)(1)(v); N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
266.	**Failure to address in the written operating procedures steps for each operating phase including normal shutdown.**	**40 CFR 68.69(a)(1)(vi), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
267.	Failure to address in the written operating procedures steps for each operating phase including startup following a turnaround, or after an emergency shutdown.	40 CFR 68.69(a)(1)(vii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
268.	Failure to address in the written operating procedures operating limits including consequences of deviation.	40 CFR 68.69(a)(2)(i), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
269.	Failure to address in the written operating procedures operating limits including steps required to correct or avoid deviation.	40 CFR 68.69(a)(2)(ii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
270.	Failure to address in the written operating procedures safety and health considerations including properties of, and hazards presented by, the chemicals used in the process.	40 CFR 68.69(a)(3)(i), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
271.	Failure to address in the written operating procedures safety and health considerations containing precautions necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment.	40 CFR 68.69(a)(3)(ii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
272.	Failure to address in the written operating procedures safety and health considerations including control measures to be taken if physical contact or airborne exposure occurs.	40 CFR 68.69(a)(3)(iii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
273.	Failure to address in the operating written procedures safety and health considerations including quality control for raw materials and control of hazardous chemical inventory levels.	40 CFR 68.69(a)(3)(iv), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
274.	Failure to address in the written operating procedures safety and health considerations including any special or unique hazards.	40 CFR 68.69(a)(3)(v), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
275.	Failure to address in the written operating procedures safety systems and their functions.	40 CFR 68.69(a)(4), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
276.	Failure to make operating procedures readily accessible to employees who work in or maintain the process.	40 CFR 68.69(b), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
277.	Failure to review the operating procedures as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to the stationary source.	40 CFR 68.69(c), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
278.	Failure to certify annually that the operating procedures are current and accurate.	40 CFR 68.69(c), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000
279.	Failure to develop and implement safe work practices that apply to employees and contractor employees that provide for the control of hazards during operations such as lockout/tagout; confined space entry; opening process equipment or piping; or control over entrance into the stationary source by maintenance, contractor, laboratory, or other support personnel.	40 CFR 68.69(d), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000
280.	Failure to include in the standard operating procedures a process description defining the operation and showing flows, temperatures and pressures, or a reference to a document with this information.	N.J.A.C. 7:31-4.3(b)1	500	1,000	2,500
281.	Failure to include in the standard operating procedures sampling procedures addressing apparatus and specific steps involved in the taking of samples.	N.J.A.C. 7:31-4.3(b)2	500	1,000	2,500
282.	Failure to include in the standard operating procedures logsheets and checklists where appropriate to the operation.	N.J.A.C. 7:31-4.3(b)3	500	1,000	2,500

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
283.	**Failure to include in the standard operating procedures a statement as to the number of EHS operators required to meet safety needs for each operation that has shift coverage requirements.**	**N.J.A.C. 7:31-4.3(b)4**	**500**	**1,000**	**2,500**
284.	**Failure to include in the standard operating procedures a requirement that an EHS operator be in attendance at the stationary source to acknowledge alarms and take corrective action to prevent an accident at all times during EHS handling, use, manufacturing, storage or generation unless the conditions of N.J.A.C. 7:31-4.3(b)5i, are met. or Failure to provide EHS monitoring equipment with alarms reporting to a continuously attended station whose personnel are trained to take action to prevent an EHS accident.**	**N.J.A.C. 7:31-4.3(b)5i**	**500**	**1,000**	**2,500**
285.	**Failure to include in the standard operating procedures a requirement that an EHS operator be in attendance at the stationary source to acknowledge alarms and take corrective action to prevent an accident at all times during EHS handling, use, manufacturing, storage or generation unless the conditions of N.J.A.C. 7:31-4.3(b)5ii are met. or Failure to provide EHS monitoring equipment with alarms reporting to a continuously attended station whose personnel are trained to take action to prevent an EHS accident.**	**N.J.A.C. 7:31-4.3(b)5ii**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
286.	**Failure to include in the standard operating procedures a requirement that an EHS operator be in attendance at the stationary source to acknowledge alarms and take corrective action to prevent an accident at all times during EHS handling, use, manufacturing, storage or generation unless the conditions of N.J.A.C. 7:31-4.3(b)5iii are met.** **or** **Failure to provide EHS monitoring equipment with alarms reporting to a continuously attended station, and failure to demonstrate that an EHS operator is not necessary during the specified activity by performing a risk assessment pursuant to N.J.A.C. 7:31-4.2.**	**N.J.A.C. 7:31-4.3(b)5iii**	**500**	**1,000**	**2,500**
287.	**Failure to include in the standard operating procedures a requirement that an EHS operator be in attendance at the stationary source to acknowledge alarms and take corrective action to prevent an accident at all times during EHS handling, use, manufacturing, storage or generation unless the conditions of N.J.A.C. 7:31-4.3(b)5iv are met.** **or** **Failure to implement anhydrous ammonia detection monitoring equipment capable of automatically isolating, shutting down, and emptying EHS equipment and provided with alarms reporting to a continuously attended station whose personnel are trained to take action to prevent an EHS accident.**	**N.J.A.C. 7:31-4.3(b)5iv**	**500**	**1,000**	**2,500**
288.	**Failure to include in the standard operating procedures a table of contents or a system to index the standard operating procedures covering the items of 40 CFR 68.69(a) and N.J.A.C. 7:31-4.3(b)1 through 5 for each covered process.**	**N.J.A.C. 7:31-4.3(b)6**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
289.	**Failure to train each employee presently involved in operating a process in an overview of the process and in the operating procedures as specified in 40 CFR 68.69 as incorporated at N.J.A.C. 7:31-4.1(c)8.** **or** **Failure to include in the training for employees presently involved in operating a process emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks.** **or** **Failure to train each employee before being involved in operating a newly assigned process in an overview of the process and in the operating procedures as specified in 40 CFR 68.69 as incorporated at N.J.A.C. 7:31-4.1(c)8.** **or** **Failure to include in the training of a newly assigned employee emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks.**	**40 CFR 68.71(a)(1), N.J.A.C. 7:31-4.1(c)**	**2,000**	**4,000**	**10,000**
290.	**Failure to certify in writing that an employee has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as specified in the operating procedures in lieu of initial training for those employees already involved in operating a process on June 21, 1999.**	**40 CFR 68.71(a)(2), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
291.	**Failure to provide refresher training at least every three years and more often as necessary to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. or Failure to determine, in consultation with the employees involved in operating the process, the appropriate frequency of refresher training.**	**40 CFR 68.71(b), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
292.	**Failure to ascertain that each employee involved in operating a process has received and understood the required training.**	**40 CFR 68.71(c), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,500**
293.	**Failure to prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training.**	**40 CFR 68.71(c), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
294.	**Failure to provide a written job description which includes the duties and responsibilities for each EHS operator position.**	**N.J.A.C. 7:31-4.4(b)**	**500**	**1,000**	**2,500**
295.	**Failure to specify the qualifications required for the personnel responsible for training EHS operators.**	**N.J.A.C. 7:31-4.4(c)**	**500**	**1,000**	**2,500**
296.	**Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to pressure vessels and storage tanks.**	**40 CFR 68.73(a)(1), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
297.	**Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to piping systems (including piping components such as valves).**	**40 CFR 68.73(a)(2), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
298.	**Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to relief and vent systems and devices.**	**40 CFR 68.73(a)(3), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
299.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to emergency shutdown systems.	40 CFR 68.73(a)(4), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
300.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to controls (including monitoring devices and sensors, alarms, and interlocks).	40 CFR 68.73(a)(5), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
301.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to pumps.	40 CFR 68.73(a)(6), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
302.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(c)11 to all EHS equipment.	40 CFR 68.73(a)(6), N.J.A.C. 7:31-4.1(c)11i	1,000	2,000	5,000
303.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(c)11 to standby emergency equipment such as power generators, fire pumps, and lighting.	40 CFR 68.73(a)(6), N.J.A.C. 7:31-4.1(c)11ii	1,000	2,000	5,000
304.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(c)11 to electrical grounding systems.	40 CFR 68.73(a)(6), N.J.A.C. 7:31-4.1(c)11iii	1,000	2,000	5,000
305.	Failure to establish and implement written procedures to maintain the on-going integrity of process equipment.	40 CFR 68.73(b), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000
306.	Failure to train each employee involved in maintaining the on-going integrity of process equipment in an overview of that process and its hazards and in the procedures applicable to the employee's job tasks to assure that the employee can perform the job tasks in a safe manner.	40 CFR 68.73(c), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000
307.	Failure to perform inspections and tests on process equipment.	40 CFR 68.73(d)(1), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
308.	Failure to follow recognized and generally accepted good engineering practices for inspection and testing procedures.	40 CFR 68.73(d)(2), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
309.	Failure to make the frequency of inspections and tests of process equipment consistent with applicable manufacturers' recommendations and good engineering practices, and to increase frequency when determined to be necessary by prior operating experience.	40 CFR 68.73(d)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
310.	Failure to document each inspection and test that has been performed on process equipment. or Failure to identify in the maintenance documentation the date of an inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, or the results of the inspection or test.	40 CFR 68.73(d)(4), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500
311.	Failure to correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in 40 CFR 68.65 as incorporated at N.J.A.C. 7:31-4.1(a)) before further use or in a safe and timely manner when necessary means are taken to assure safe operation.	40 CFR 68.73(e), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000
312.	Failure, in the construction of new plants and equipment, to assure that equipment as it is fabricated is suitable for the process application for which it will be used.	40 CFR 68.73(f)(1), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
313.	Failure to perform appropriate checks and inspections to assure that equipment is installed properly and consistent with design specifications and the manufacturer's instructions.	40 CFR 68.73(f)(2), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
314.	**Failure to assure that maintenance materials, spare parts and equipment are suitable for the process application for which they will be used.**	**40 CFR 68.73(f)(3), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
315.	**Failure to implement a system for maintaining accurate records of all inspections, breakdowns, repairs and replacements of EHS equipment with the means of data retrieval and analysis to determine the frequency of inspections and tests and to evaluate equipment reliability.**	**N.J.A.C. 7:31-4.5(b)**	**2,000**	**4,000**	**10,000**
316.	**Failure to establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, procedure, or other changes to stationary sources that affect a covered process.**	**40 CFR 68.75(a), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
317.	**Failure to assure in the management of change procedures that the technical basis for the proposed change is addressed prior to implementing the change.**	**40 CFR 68.75(b)(1), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
318.	**Failure to assure in the management of change procedures that the impact of the proposed change on safety and health and preventive maintenance procedures is addressed prior to implementing the change.**	**40 CFR 68.75(b)(2), N.J.A.C. 7:31-4.1(c)12**	**1,000**	**2,000**	**5,000**
319.	**Failure to assure in the management of change procedures that modifications to operating procedures are addressed prior to implementing the change.**	**40 CFR 68.75(b)(3), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
320.	**Failure to assure in the management of change procedures that the necessary time period for the change is addressed prior to implementing the change.**	**40 CFR 68.75(b)(4), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
321.	**Failure to assure in the management of change procedures that the authorization requirements for the proposed change are addressed prior to implementing the change.**	**40 CFR 68.75(b)(5), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
322.	**Failure to train and inform employees involved in operating a process and maintenance and contract employees whose job tasks will be affected by a change in the process on a change prior to start-up of the changed process or the affected part of the process.**	**40 CFR 68.75(c), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
323.	**Failure to update the process safety information required by 40 CFR 68.65 as incorporated at N.J.A.C. 7:31-4.1 to reflect changes in such information.**	**40 CFR 68.75(d), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
324.	**Failure to update the operating procedures or practices for a change covered by 40 CFR 68.75 as incorporated at N.J.A.C. 7:31-4.1 that resulted in a change in the operating procedures or practices.**	**40 CFR 68.75(e), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
325.	**Failure to identify the associated release scenarios and changes in rate, duration or quantity for a change in the covered process or procedures that resulted in an increase in rate, duration or quantity, or release frequency.**	**N.J.A.C. 7:31-4.6(b)**	**1,000**	**2,000**	**5,000**
326.	**Failure to analyze the associated release scenarios for a change in the covered process or procedures that resulted in an increase in rate, duration and quantity, or release frequency in accordance with the parameters and methods required at N.J.A.C. 7:31-4.2 to determine whether a criterion endpoint defined at N.J.A.C. 7:31-4.2(b)3iv extends beyond the stationary source boundary.**	**N.J.A.C. 7:31-4.6(b)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
327.	**Failure to prepare or update the documentation and report required by N.J.A.C. 7:31-4.2(d) and (e) prior to implementing a change for a release scenario that results in a criterion endpoint extending beyond the stationary source boundary.**	**N.J.A.C. 7:31-4.6(c)**	**4,000**	**8,000**	**20,000**
328.	**Failure to require in the management of change temporary change procedure a description of the temporary change to be made.**	**N.J.A.C. 7:31-4.6(d)1i**	**2,000**	**4,000**	**10,000**
329.	**Failure to require in the management of change temporary change procedure a description of the temporary change that includes identification of the EHS equipment, piping and instrument diagram(s), and standard operating procedure(s) affected by the temporary change.**	**N.J.A.C. 7:31-4.6(d)1ii**	**2,000**	**4,000**	**10,000**
330.	**Failure to require in the management of change temporary change procedure a description of the temporary change including the reason for the temporary change.**	**N.J.A.C. 7:31-4.6(d)1iii**	**2,000**	**4,000**	**10,000**
331.	**Failure to require in the management of change temporary change procedure the authorization of the temporary change by the appropriate person specified in the management system developed pursuant to 40 CFR 68.15(c) as incorporated at N.J.A.C. 7:31-1.1(c).**	**N.J.A.C. 7:31-4.6(d)2**	**2,000**	**4,000**	**10,000**
332.	**Failure to require in the management of change temporary change procedure the notification of all personnel affected by the temporary change.**	**N.J.A.C. 7:31-4.6(d)3**	**2,000**	**4,000**	**10,000**
333.	**Failure to require in the management of change temporary change procedure the implementation of appropriate safety precautions while the temporary change is in EHS service.**	**N.J.A.C. 7:31-4.6(d)4**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
334.	**Failure to require in the management of change temporary change procedure the time limit for the temporary change. or Failure to comply with all requirements of 40 CFR 68.75 with changes specified at N.J.A.C. 7:31-4.1(c)12 and N.J.A.C. 7:31-4.6(a), (b), and (c) for a temporary change that exceeded the time limit specified in the management of change procedures.**	**N.J.A.C. 7:31-4.6(d)5**	**2,000**	**4,000**	**10,000**
335.	**Failure to include in the management of change temporary change procedure a requirement to ensure that the equipment and procedures are returned to their original or designed conditions at the end of the temporary change.**	**N.J.A.C. 7:31-4.6(d)6**	**2,000**	**4,000**	**10,000**
336.	**Failure to perform a pre-startup safety review for new stationary sources or modified stationary sources for a modification significant enough to require a change in the process safety information.**	**40 CFR 68.77(a), N.J.A.C. 7:31-4.1(a)**	**4,000**	**8,000**	**20,000**
337.	**Failure to confirm in a pre-startup safety review that prior to the introduction of regulated substances to a process, construction and equipment are in accordance with design specifications.**	**40 CFR 68.77(b)(1), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
338.	**Failure to confirm in a pre-startup safety review that prior to the introduction of regulated substances to a process, safety, operating, maintenance, and emergency procedures are in place and are adequate.**	**40 CFR 68.77(b)(2), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
339.	**Failure to confirm in a pre-startup safety review that prior to the introduction of regulated substances to a process for a new stationary source, a process hazard analysis has been performed and recommendations have been resolved or implemented before startup. or Failure to confirm in a pre-startup safety review that modified stationary sources meet the management of change requirements contained in at 40 CFR 68.75 incorporated at N.J.A.C. 7:31-4.1(a).**	**40 CFR 68.77(b)(3), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
340.	**Failure to confirm in a pre-startup safety review that prior to the introduction of regulated substances to a process, training of each employee involved in operating the process has been completed.**	**40 CFR 68.77(b)(4), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
341.	**Failure to conduct a safety review of design for new EHS equipment in a new covered process prior to construction and to document that the design of the covered process follows design and operating standards as reflected in the process safety information compiled in accordance with 40 CFR 68.65 with changes specified at N.J.A.C. 7:31-4.1(c)1 through 4.**	**N.J.A.C. 7:31-4.7(b)**	**2,000**	**4,000**	**10,000**
342.	**Failure to prepare a written report for the safety review of design for a new covered process.**	**N.J.A.C. 7:31-4.7(c)**	**2,000**	**4,000**	**10,000**
343.	**Failure to include in the written report for each safety review performed pursuant to N.J.A.C. 7:31-4.7(b) the date of the report or an identification of the covered process, the process safety information, or the standard operating procedures reviewed.**	**N.J.A.C. 7:31-4.7(c)1**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
344.	**Failure to include in the written report for each safety review performed pursuant to N.J.A.C. 7:31-4.7(b) an identification of the codes and standards upon which the covered process design and operations were based.**	**N.J.A.C. 7:31-4.7(c)2**	**500**	**1,000**	**2,500**
345.	**Failure to include in the written report for each safety review performed pursuant to N.J.A.C. 7:31-4.7(b) the names of the person(s) who performed the safety review.**	**N.J.A.C. 7:31-4.7(c)3**	**500**	**1,000**	**2,500**
346.	**Failure to include in the written report for each safety review performed pursuant to N.J.A.C. 7:31-4.7(b) the deviations from the design and operating codes and standards that were found with an appropriate description of the resolution of each deviation.**	**N.J.A.C. 7:31-4.7(c)4**	**500**	**1,000**	**2,500**
347.	**Failure to conduct and document a pre-startup safety review prior to placing a new or modified covered process into EHS service.**	**N.J.A.C. 7:31-4.7(d)**	**4,000**	**8,000**	**20,000**
348.	**Failure to prepare a written report for each pre-startup safety review.**	**N.J.A.C. 7:31-4.7(e)**	**2,000**	**4,000**	**10,000**
349.	**Failure to prepare a written report for each pre-startup safety review performed pursuant to N.J.A.C. 7:31-4.7(d) that includes the date of the report and an identification of the covered process.**	**N.J.A.C. 7:31-4.7(e)1**	**500**	**2,000**	**5,000**
350.	**Failure to include in the written report for each pre-startup safety review performed pursuant to N.J.A.C. 7:31-4.7(d) documentation that all the requirements of 40 CFR 68.77(b) as incorporated at N.J.A.C. 7:31-4.1(a) have been completed prior to the startup of the new or modified covered process.**	**N.J.A.C. 7:31-4.7(e)2**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
351.	**Failure to conduct a compliance audit and certify that compliance with the provisions of 40 CFR Subpart D incorporated at N.J.A.C. 7:31-4 has been evaluated at least every year to verify that the procedures and practices developed are adequate and are being followed. or Failure to verify that the process technology and equipment, as built and operated, are in accordance with the process safety information prepared pursuant to 40 CFR 68.65(c) and (d) as incorporated with changes at N.J.A.C. 7:31-4.1(c)1 through 4.**	**40 CFR 68.79(a), N.J.A.C. 7:31-4.1(c)13**	**4,000**	**8,000**	**20,000**
352.	**Failure to conduct the compliance audit with at least one person knowledgeable in the process.**	**40 CFR 68.79(b), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
353.	**Failure to develop a report of the findings of the audit.**	**40 CFR 68.79(c), N.J.A.C. 7:31-4.1(c)14**	**1,000**	**2,000**	**5,000**
354.	**Failure to include in the report of the findings of the audit the scope, audit techniques, methods used, or the names of the audit participants.**	**40 CFR 68.79(c), N.J.A.C. 7:31-4.1(c)14**	**1,000**	**2,000**	**5,000**
355.	**Failure to promptly determine and document an appropriate response to each of the findings of the compliance audit. or Failure to document that deficiencies identified during the compliance audit have been corrected.**	**40 CFR 68.79(d), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
356.	**Failure to retain the two (2) most recent compliance audit reports.**	**40 CFR 68.79(e), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
357.	**Failure to investigate each EHS accident or potential catastrophic event.**	**40 CFR 68.81(a), N.J.A.C. 7:31-4.1(c)16**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
358.	**Failure to initiate an EHS accident or potential catastrophic event investigation as promptly as possible, but not later than 48 hours following the incident.**	**40 CFR 68.81(b), N.J.A.C. 7:31-4.1(c)15**	**1,000**	**2,000**	**5,000**
359.	**Failure to establish an EHS accident or potential catastrophic event investigation team that consists of at least one person knowledgeable in the process involved, including a contract employee if the incident involved work of a contractor, and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident.**	**40 CFR 68.81(c), N.J.A.C. 7:31-4.1(c)15**	**1,000**	**2,000**	**5,000**
360.	**Failure to prepare a report at the conclusion of the EHS accident or potential catastrophe event investigation.**	**40 CFR 68.81(d) N.J.A.C. 7:31-4.1 (c) 15&17**	**1,000**	**2,000**	**5,000**
361.	**Failure to prepare a report at the conclusion of the investigation which includes the date, time, or location of the EHS accident or potential catastrophic event.**	**40 CFR 68.81(d)(1), N.J.A.C. 7:31-4.1(c)15&17**	**1,000**	**2,000**	**5,000**
362.	**Failure to prepare a report at the conclusion of the EHS accident or potential catastrophic event investigation which includes the date the investigation began.**	**40 CFR 68.81(d)(2), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
363.	**Failure to prepare a report at the conclusion of the EHS accident or potential catastrophic event investigation which includes a description of the EHS accident or potential catastrophic event in chronological order providing all the relevant facts.** **or** **Failure to include the identity, amount and duration of the EHS release when these facts could reasonably be determined based on the information obtained through the EHS accident or potential catastrophic event investigation.** **or** **Failure to identify consequences of the EHS accident or potential catastrophic event including the number of evacuees, injured, fatalities, or the impact on the community.**	**40 CFR 68.81(d)(3), N.J.A.C. 7:31-4.1(c)15&18**	**1,000**	**2,000**	**5,000**
364.	**Failure to prepare a report at the conclusion of the investigation which includes the factors that contributed to the EHS accident or potential catastrophic event and an identification of basic and contributory causes, either direct or indirect.**	**40 CFR 68.81(d)(4), N.J.A.C. 7:31-4.1(c)15&19**	**1,000**	**2,000**	**5,000**
365.	**Failure to prepare a report prepared at the conclusion of the EHS accident or potential catastrophic event investigation which includes any recommendations resulting from the investigation to prevent a recurrence.**	**40 CFR 68.81(d)(5), N.J.A.C. 7:31-4.1(c)20**	**1,000**	**2,000**	**5,000**
366.	**Failure to prepare a report at the conclusion of the EHS accident or potential catastrophic event investigation which includes the names and position titles of the investigators.**	**40 CFR 68.81(d)(5), N.J.A.C. 7:31-4.1(c)21i**	**1,000**	**2,000**	**5,000**
367.	**Failure to establish a system to promptly address and resolve the EHS accident or potential catastrophic event report findings and recommendations.**	**40 CFR 68.81(e), N.J.A.C. 7:31-4.1(c)15**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
368.	**Failure to document EHS accident or potential catastrophic event investigation resolutions and corrective actions.**	**40 CFR 68.81(e), N.J.A.C. 7:31-4.1(c)15**	**1,000**	**2,000**	**5,000**
369.	**Failure to review the investigation report with all affected personnel whose job tasks are relevant to the EHS accident or potential catastrophic event findings including contract employees, where applicable.**	**40 CFR 68.81(f), N.J.A.C. 7:31-4.1(c)15**	**1,000**	**2,000**	**5,000**
370.	**Failure to retain EHS accident or potential catastrophic event investigation reports for five years.**	**40 CFR 68.81(g), N.J.A.C. 7:31-4.1(c)15**	**2,000**	**4,000**	**10,000**
371.	**Failure to develop a written plan of action regarding the implementation of the employee participation required by 40 CFR 68.83 as incorporated at N.J.A.C. 7:31-4.1(a).**	**40 CFR 68.83(a), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
372.	**Failure to consult with employees and their representatives on the conduct and development of process hazards analyses with risk assessments and on the development of the other elements of process safety management in this rule.**	**40 CFR 68.83(b), N.J.A.C. 7:31-4.1(c)22**	**1,000**	**2,000**	**5,000**
373.	**Failure to provide to employees and their representatives access to process hazard analyses with risk assessments and to all other information required to be developed under this rule.**	**40 CFR 68.83(c), N.J.A.C. 7:31-4.1(c)22**	**2,000**	**4,000**	**10,000**
374.	**Failure to issue a hot work permit for hot work operations conducted on or near a covered process.**	**40 CFR 68.85(a), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
375.	**Failure to document in the hot work permit that the fire prevention and protection requirements in 29 CFR 1910.252(a) have been implemented prior to beginning the hot work operations, to indicate the date(s) authorized for hot work, and to identify the object on which hot work is to be performed. or Failure to keep the hot work permit on file until completion of the hot work operations.**	**40 CFR 68.85(b), N.J.A.C. 7:31-4.1(a)**	**500**	**1,000**	**2,000**
376.	**Failure to apply the requirements of 40 CFR 68.87 as incorporated at N.J.A.C. 7:31-4.1(a) for contractors performing maintenance or repair, turnaround, major renovation, or specialty work on or adjacent to a covered process.**	**40 CFR 68.87(a), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
377.	**Failure to obtain and evaluate information regarding the contract owner or operator's safety performance and programs when selecting a contractor.**	**40 CFR 68.87(b)(1), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
378.	**Failure to inform a contract owner or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process.**	**40 CFR 68.87(b)(2), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
379.	**Failure to explain to the contract owner or operator the applicable provisions of 40 CFR 68 subpart E as incorporated at N.J.A.C. 7:31-5.1(a).**	**40 CFR 68.87(b)(3), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
380.	**Failure to develop and implement safe work practices consistent with 40 CFR 68.69(d), as incorporated at N.J.A.C. 7:31-4.1(a) to control the entrance, presence, and exit of the contract owner or operator and contract employees in covered process areas.**	**40 CFR 68.87(b)(4), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
381.	**Failure to periodically evaluate the performance of the contract owner or operator in fulfilling their obligations as specified in 40 CFR 68.87(c) as incorporated at N.J.A.C. 7:31-4.1(a).**	**40 CFR 68.87(b)(5), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
382.	**Failure of the contract owner or operator to assure that each contract employee is trained in the work practices necessary to safely perform his/her job.**	**40 CFR 68.87(c)(1), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
383.	**Failure of the contract owner or operator to assure that each contract employee is instructed in the known potential fire, explosion, or toxic release hazards related to his/her job and the process, and the applicable provisions of the emergency action plan.**	**40 CFR 68.87(c)(2), N.J.A.C. 7:31-4.1(a)]**	**2,000**	**4,000**	**10,000**
384.	**Failure of the contract owner or operator to document that each contract employee has received and understood the training required by 40 CFR 68.87 as incorporated at N.J.A.C. 7:31-4.1(a).** **or** **Failure of the contract owner or operator to prepare a record which contains the identity of the contract employee, the date of training, and the means used to verify that each employee understood the training.**	**40 CFR 68.87(c)(3), N.J.A.C. 7:31-4.1(a)**	**1,000**	**2,000**	**5,000**
385.	**Failure of the contract owner or operator to assure that each contract employee follows the safety rules of the stationary source including the safe work practices required by 40 CFR 68.69(d) as incorporated as N.J.A.C. 7:31-4.1 (a).**	**40 CFR 68.87(c)(4), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**
386.	**Failure of the contract owner or operator to advise the owner or operator of any unique hazards presented by the contract owner or operator's work, or of any hazards found by the contract owner or operator's work.**	**40 CFR 68.87(c)(5), N.J.A.C. 7:31-4.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
387.	**Failure to comply with the emergency response provisions of N.J.A.C. 7:31-5.**	**N.J.A.C. 7:31-4.8(a)**	**4,000**	**8,000**	**20,000**
388.	**Failure to submit to the Department within 90 days of the anniversary date an annual report reflecting the risk management activities for the 12 month period ending on the anniversary date.**	**N.J.A.C. 7:31-4.9(a)**	**2,000**	**4,000**	**10,000**
389.	**Failure to include in the annual report an update of the supplemental TCPA program information as specified in N.J.A.C. 7:31-7.2(a)2 if this supplemental information was not previously reported in a revised Risk Management Plan submittal. or Failure to state that there were no changes to the supplemental TCPA program information in the annual report if there were no changes in this information since the last Risk Management Plan submittal.**	**N.J.A.C. 7:31-4.9(b)1**	**500**	**1,000**	**2,500**
390.	**Failure to include in the annual report a description of significant changes to the management system. or Failure to state that there were no changes to the management system in the annual report if there were no changes in this information since the last annual report.**	**N.J.A.C. 7:31-4.9(b)2**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
391.	**Failure to include in the annual report a process hazard analysis with risk assessment report prepared pursuant to N.J.A.C. 7:31-4.2(e) for each process hazard analysis with risk assessment completed during the previous year, when applicable. or Failure to include in the annual report a list of the risk assessment reports prepared pursuant to N.J.A.C. 7:31-4.6(c) or the actual risk assessment reports. or Failure to state in the annual report that there were no process hazard analysis with risk assessment reports completed if no such reports were completed since the last annual report.**	**N.J.A.C. 7:31-4.9(b)3**	**500**	**1,000**	**2,500**
392.	**Failure to include in the annual report a summary of any EHS accidents that occurred during the previous year including the EHS involved and amount released if these facts could have been reasonably determined based on the information obtained through the investigation.**	**N.J.A.C. 7:31-4.9(b)4i**	**500**	**1,000**	**2,500**
393.	**Failure to include in the annual report a summary of any EHS accidents that occurred during the previous year including the date and time of the EHS accident and identification of EHS equipment involved.**	**N.J.A.C. 7:31-4.9(b)4ii**	**500**	**1,000**	**2,500**
394.	**Failure to include in the annual report a summary of any EHS accidents that occurred during the previous year including the basic and contributory causes.**	**N.J.A.C. 7:31-4.9(b)4iii**	**500**	**1,000**	**2,500**
395.	**Failure to include in the annual report a summary of any EHS accidents that occurred during the previous year including a statement that there were no EHS accidents if no EHS accidents occurred since the last annual report.**	**N.J.A.C. 7:31-4.9(b)4iv**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
396.	**Failure to include in the annual report the compliance audit report and documentation for the year ending on the anniversary date prepared pursuant to 40 CFR 68.79(c) and (d) with changes specified at N.J.A.C. 7:31-4.1(c)14 and 23.**	**N.J.A.C. 7:31-4.9(b)5**	**500**	**1,000**	**2,500**
397.	**Failure to perform a pre-startup safety review of temporarily discontinued EHS equipment and procedures in accordance with the requirements of 40 CFR 68.77(a), (b)(1) and (2) and N.J.A.C. 7:31-4.7(e), within 60 calendar days prior to bringing the EHS back to the covered process.**	**N.J.A.C. 7:31-4.10(a)1**	**2,000**	**4,000**	**10,000**
398.	**Failure to perform inspections, tests and checks conforming to requirements of 40 CFR 68.73 with changes specified at N.J.A.C. 7:31-4.1(c)10-11 and N.J.A.C. 7:31-4.5, for proper operation of temporarily discontinued EHS equipment, within 60 calendar days prior to bringing the EHS back to the covered process.**	**N.J.A.C. 7:31-4.10(a)2**	**2,000**	**4,000**	**10,000**
399.	**Failure to perform EHS operator training activities conforming to 40 CFR 68.71 with changes specified at N.J.A.C. 7:31-4.1(c)9 and N.J.A.C. 7:31-4.4, for activities involving temporarily discontinued EHS equipment, within 60 calendar days prior to bringing the EHS back to the covered process.**	**N.J.A.C. 7:31-4.10(a)3**	**2,000**	**4,000**	**10,000**
400.	**Failure to pay the annual fee for a temporary discontinuance in accordance with N.J.A.C. 7:31-1.11A(o) and (p).**	**N.J.A.C. 7:31-4.10(a)4**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
401.	**Failure to submit to the Department a report of safety review of design, in accordance with N.J.A.C. 7:31-4.7(b) and (c), and the documentation required at N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c) 1.2, at least 90 days prior to construction of a new Program 3 covered process at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-4.11(a)1**	**2,000**	**4,000**	**10,000**
402.	**Failure to receive written approval from the Department before proceeding with construction of a new Program 3 covered process at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-4.11(a)2**	**6,000**	**12,000**	**30,000**
403.	**Failure to submit to the Department, at least 90 days prior to the date the equipment was scheduled to be placed into EHS service, any updates of the documentation as required by N.J.A.C. 7:31-4.11(a)1 for a new Program 3 covered process at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-4.11(a)3**	**2,000**	**4,000**	**10,000**
404.	**Failure to conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e) for a new Program 3 covered process at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-4.11(a)4**	**4,000**	**8,000**	**20,000**
405.	**Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11A for a new Program 3 covered process at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-4.11(a)5**	**one-third of fee**	**one-third of fee + 1,000**	**one-third of fee + 2000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
406.	**Failure to submit a report of safety review of design in accordance with N.J.A.C. 7:31-4.7(b) and (c) and the documentation required at N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c)1-2 at least 90 days prior to placing the equipment into EHS service for a new Program 3 covered process that utilizes existing equipment at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-4.11(b)1**	**2,000**	**4,000**	**10,000**
407.	**Failure to conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e) on a new Program 3 covered process that utilizes existing equipment at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-4.11(b)2**	**2,000**	**4,000**	**10,000**
408.	**Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11A for a new Program 3 covered process that utilizes existing equipment at a stationary source for which there is no previously approved risk management program.**	**N.J.A.C. 7:31-4.11(b)3**	**one-third of fee**	**one-third of fee + 1,000**	**one-third of fee + 2,000**
409.	**Failure to submit a report of safety review of design in accordance with N.J.A.C. 7:31-4.7(b) and (c) and update documentation in accordance with N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c)1-2 at least 90 days prior to the scheduled placing of equipment into EHS service for a Program 3 covered process that is newly constructed or that utilizes existing equipment at a stationary source that has a previously approved risk management program.**	**N.J.A.C. 7:31-4.11(c)1**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
410.	**Failure to conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e) for a new Program 3 covered process that is newly constructed or utilizes existing equipment at a stationary source that has a previously approved risk management program.**	**N.J.A.C. 7:31-4.11(c)2**	**2,000**	**4,000**	**10,000**
411.	**Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11A for a newly constructed Program 3 covered process or one that utilizes existing equipment at a stationary source that has a previously approved risk management program.**	**N.J.A.C. 7:31-4.11(c)3**	**one-third of fee**	**one-third of fee + 1,000**	**one-third of fee + 2,000**
412.	**Failure to enter into a consent agreement or consent agreement addendum with the Department prior to placing equipment into EHS service for a new covered process and subsequent to a stationary source inspection by the Department. or Failure to complete corrective action of deficiencies in the consent agreement or consent agreement addendum for equipment in a new covered process in accordance with the schedule in the consent agreement or consent agreement addendum.**	**N.J.A.C. 7:31-4.11(d)**	**6,000**	**12,000**	**30,000**
413.	**Failure of an owner/operator of a Program 2 covered process, whose employees will not respond to accidental releases of regulated substances, to meet the emergency response exemption applicability and failure requirements of 40 CFR 68.90(b) incorporated at N.J.A.C. 7:31-5.1(c)1 and 2 and to develop and implement an emergency response program in accordance with 40 CFR 68.95.**	**40 CFR 68.90(a) N.J.A.C. 7:31-5.1(a)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
414.	**Failure to develop and implement an emergency response program that includes an emergency response plan which is maintained at the stationary source.**	**40 CFR 68.95(a) N.J.A.C. 7:31-5.1(a)**	**4,000**	**8,000**	**20,000**
415.	**Failure to include in the emergency response plan procedures for informing the public and local emergency response agencies about accidental releases.**	**40 CFR 68.95(a)(1)(i) N.J.A.C. 7:31-5.1(a)**	**500**	**1,000**	**2,500**
416.	**Failure to include in the emergency response plan documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures.**	**40 CFR 68.95(a)(1)(ii), N.J.A.C. 7:31-5.1(a)**	**500**	**1,000**	**2,500**
417.	**Failure to include in the emergency response plan procedures and measures for emergency response after an accidental release of a regulated substance.**	**40 CFR 68.95(a)(1)(iii), N.J.A.C. 7:31-5.1(a)**	**500**	**1,000**	**2,500**
418.	**Failure to include in the emergency response program procedures for the use of emergency response equipment and for its inspection, testing, and maintenance.**	**40 CFR 68.95(a)(2), N.J.A.C. 7:31-5.1(a)**	**1,000**	**2,000**	**5,000**
419.	**Failure to include in the emergency response program emergency response program training for all employees in relevant procedures.**	**40 CFR 68.95(a)(3), N.J.A.C. 7:31-5.1(a)**	**1,000**	**2,000**	**5,000**
420.	**Failure to include in the emergency response program procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and to ensure that employees are informed of changes.**	**40 CFR 68.95(a)(4), N.J.A.C. 7:31-5.1(a)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
421.	**Failure to include elements of 40 CFR 68.95(a) and 40 CFR 68.95(c) as incorporated at N.J.A.C. 7:31-5.1(a) in the emergency response plan that are consistent with and as stringent as the National Response Team's Integrated Contingency Plan Guidance ("One Plan").**	**40 CFR 68.95(b), N.J.A.C. 7:31-5.1(a)3&4**	**1,000**	**2,000**	**5,000**
422.	**Failure to coordinate the emergency response plan developed under 40 CFR 68.95(a)(1) as incorporated at N.J.A.C. 7:31-5.1(a) with the community emergency response plan developed under 42 U.S.C. 11003. or Failure to promptly provide to the local emergency planning committee or emergency response officials, upon their request, information necessary for developing and implementing the community emergency response plan.**	**40 CFR 68.95(c), N.J.A.C. 7:31-5.1(a)**	**1,000**	**2,000**	**5,000**
423.	**Failure to develop and implement a written emergency response (ER) program which includes initial and annual refresher emergency response training for all employees in relevant procedures to implement the emergency response plan.**	**N.J.A.C. 7:31-5.2(b)1**	**2,000**	**4,000**	**10,000**
424.	**Failure to develop and implement a written emergency response (ER) program which includes performance of at least one EHS ER exercise per calendar year.**	**N.J.A.C. 7:31-5.2(b)2**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
425.	**Failure to invite at least one outside responder agency who is designated in the ER plan to participate in the ER exercise at a stationary source with a Program 2 covered process whose employees will not respond to an EHS accident in accordance with 40 CFR 68.90(b) with changes specified at N.J.A.C. 7:31-5.1(c)2. or Failure to require employees of the stationary source to perform their assigned responsibilities for all ER exercises.**	**N.J.A.C. 7:31-5.2(b)2i**	**2,000**	**4,000**	**10,000**
426.	**Failure to perform at least one full scale ER exercise in which the ER team and ER containment, mitigation, and monitoring equipment are deployed at a strength appropriate to demonstrate the adequacy and implementation of the plan for a stationary source at which the employees will respond to an EHS accident.**	**N.J.A.C. 7:31-5.2(b)2ii**	**2,000**	**4,000**	**10,000**
427.	**Failure to make a written assessment of the ER plan and of the adequacy or need for ER equipment after each ER plan implementation or each ER exercise.**	**N.J.A.C. 7:31-5.2(b)3**	**1,000**	**2,000**	**5,000**
428.	**Failure to provide in the emergency response (ER) program a description of the emergency notification system which requires immediate notification of an EHS accident or imminent EHS accident at the stationary source, including company name and address of the EHS accident, to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee.**	**N.J.A.C. 7:31-5.2(b)4i(1)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
429.	**Failure to provide in the emergency response (ER) program a description of the emergency notification system which requires immediate notification of an EHS accident or imminent EHS accident at the stationary source, including the name, position and telephone number of the caller, to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee.**	**N.J.A.C. 7:31-5.2(b)4i(2)**	**1,000**	**2,000**	**5,000**
430.	**Failure to provide in the emergency response (ER) program a description of the emergency notification system which requires immediate notification of an EHS accident or imminent EHS accident at the stationary source, including time of, or anticipated time of the EHS accident and the projected duration to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee.**	**N.J.A.C. 7:31-5.2(b)4i(3)**	**1,000**	**2,000**	**5,000**
431.	**Failure to provide in the emergency response (ER) program's emergency notification system a requirement for immediate notification of an EHS accident or imminent EHS accident, including the chemical name of the EHS released, to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee.**	**N.J.A.C. 7:31-5.2(b)4i(4)**	**1,000**	**2,000**	**5,000**
432.	**Failure to provide in the emergency notification system a requirement for immediate notification to the Department's emergency communications center at 877-WARNDEP of an EHS accident or imminent EHS accident by the emergency coordinator or designee stating the actual EHS quantity (or estimated quantity if not known), and whether it will have an offsite impact.**	**N.J.A.C. 7:31-5.2(b)4i(5)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
433.	**Failure to require in the emergency response (ER) program's emergency notification system the weather conditions, including wind direction and speed and expected offsite effects in the immediate notification to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee for an EHS accident or imminent EHS accident.**	**N.J.A.C. 7:31-5.2(b)4i(6)**	**1,000**	**2,000**	**5,000**
434.	**Failure to provide in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee for the stationary source be prepared to provide the Department's emergency communications center with updates, if requested, which include the name and address of the stationary source.**	**N.J.A.C. 7:31-5.2(b)4ii(1)**	**1,000**	**2,000**	**5,000**
435.	**Failure to provide in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee for the stationary source be prepared to provide the Department's emergency communications center updates, if requested, which include the name, position and telephone number of the caller.**	**N.J.A.C. 7:31-5.2(b)4ii(2)**	**1,000**	**2,000**	**5,000**
436.	**Failure to require in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee be prepared to provide the Department's emergency communications center with updates, if requested, which include the location of the point of EHS release, a description of the source, cause and type of EHS accident, quantity and concentration of the EHS released, and whether the EHS release is of a continuing nature.**	**N.J.A.C. 7:31-5.2(b)4ii(3)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
437.	**Failure to provide in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee for the stationary source be prepared to provide the Department's emergency communications center updates, if requested, which include the measures taken to terminate the EHS release or to mitigate its effect, and the effectiveness of such measures.**	**N.J.A.C. 7:31-5.2(b)4ii(4)**	**1,000**	**2,000**	**5,000**
438.	**Failure to provide in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee for the stationary source be prepared to provide the Department's emergency communications center updates, if requested, which include an update on weather conditions.**	**N.J.A.C. 7:31-5.2(b)4ii(5)**	**1,000**	**2,000**	**5,000**
439.	**Failure to report to the Department's emergency communications center an EHS accident that had potential offsite impact or that extended beyond an industrial complex property boundary.**	**N.J.A.C. 7:31-5.2(b)4iii(1)**	**4,000**	**8,000**	**20,000**
440.	**Failure to report to the Department's emergency communications center an EHS accident that resulted in actual or potential injuries or fatalities at the stationary source.**	**N.J.A.C. 7:31-5.2(b)4iii(2)**	**4,000**	**8,000**	**20,000**
441.	**Failure to report to the Department's emergency communications center an EHS accident that activates the emergency response plan.**	**N.J.A.C. 7:31-5.2(b)4iii(3)**	**4,000**	**8,000**	**20,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
442.	**Failure to submit a single RMP that includes the information required by 40 CFR 68.155 through 40 CFR 68.185 as incorporated at N.J.A.C. 7:31-7.1 for all covered processes. or Failure to submit the RMP for covered processes regulated under 40 CFR 68 as incorporated at N.J.A.C. 7:31-7.1 in a method and format to a central point as specified by USEPA prior to June 21, 1999. or Failure to submit the RMP for all covered processes to the Department in accordance with N.J.A.C. 7:31-7.2.**	**40 CFR 68.150(a), N.J.A.C. 7:31-7.1(c)1&2**	**5,000**	**10,000**	**25,000**
443.	**Failure to submit the first RMP on or before June 21, 1999.**	**40 CFR 68.150(b)(1), N.J.A.C. 7:31-7.1(a)**	**5,000**	**10,000**	**25,000**
444.	**Failure to submit the first RMP on or before three years after the date on which a regulated substance is first listed under 40 CFR 68.130.**	**40 CFR 68.150(b)(2), N.J.A.C. 7:31-7.1(a)**	**5,000**	**10,000**	**25,000**
445.	**Failure to submit the first RMP on or before the date on which a regulated substance is first present above a threshold quantity in a process.**	**40 CFR 68.150(b)(3), N.J.A.C. 7:31-7.1(a)**	**5,000**	**10,000**	**25,000**
446.	**Failure to make subsequent submissions of RMPs in accordance with 40 CFR 68.190, as incorporated at N.J.A.C. 7:31-7.1(c)3,4, and 5.**	**40 CFR 68.150(c), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
447.	**Failure to provide an executive summary in the RMP.**	**40 CFR 68.155 N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
448.	**Failure to provide in the RMP executive summary a brief description of the accidental release prevention and emergency response policies at the stationary source.**	**40 CFR 68.155(a), N.J.A.C. 7:31-7.1(a)**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
449.	**Failure to provide in the RMP executive summary a brief description of the stationary source and regulated substances handled.**	**40 CFR 68.155(b), N.J.A.C. 7:31-7.1(a)**	**500**	**1,000**	**2,500**
450.	**Failure to provide in the RMP executive summary a brief description of the worst-case release scenario(s) and the alternative release scenario(s), including administrative controls and mitigation measures to limit the distances for each reported scenario.**	**40 CFR 68.155(c), N.J.A.C. 7:31-7.1(a)**	**500**	**1,000**	**2,500**
451.	**Failure to provide in the RMP executive summary a brief description of the general accidental release prevention program and chemical specific prevention steps.**	**40 CFR 68.155(d), N.J.A.C. 7:31-7.1(a)**	**500**	**1,000**	**2,500**
452.	**Failure to provide in the RMP executive summary a brief description of the five-year accident history.**	**40 CFR 68.155(e), N.J.A.C. 7:31-7.1(a)**	**500**	**1,000**	**2,500**
453.	**Failure to provide in the RMP executive summary a brief description of the emergency response program.**	**40 CFR 68.155(f), N.J.A.C. 7:31-7.1(a)**	**500**	**1,000**	**2,500**
454.	**Failure to provide in the RMP executive summary a brief description of the planned changes to improve safety.**	**40 CFR 68.155(g), N.J.A.C. 7:31-7.1(a)**	**500**	**1,000**	**2,500**
455.	**Failure to complete a single registration form that is included in the RMP that covers all regulated substances handled in covered processes.**	**40 CFR 68.160(a), N.J.A.C. 7:31-7.1(a)**	**2,000**	**4,000**	**10,000**
456.	**Failure to include in the registration any of the following: stationary source name, street, city, county, state, zip code, latitude and longitude, method for obtaining latitude and longitude, or description of location that latitude and longitude represent.**	**40 CFR 68.160(b)(1), N.J.A.C. 7:31-7.1(a)**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
457.	Failure to include in the registration the stationary source's Dun and Bradstreet number.	40 CFR 68.160(b)(2), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
458.	Failure to include in the registration the name and Dun and Bradstreet number of the corporate parent company.	40 CFR 68.160(b)(3), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
459.	Failure to include in the registration the name, telephone number, and mailing address of the owner or operator.	40 CFR 68.160(b)(4), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
460.	Failure to include in the registration the name and title of the person or position with overall responsibility for RMP elements and implementation.	40 CFR 68.160(b)(5), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
461.	Failure to include in the registration the emergency contact person's name, title, telephone number, and 24-hour telephone number.	40 CFR 68.160(b)(6), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
462.	Failure to include in the registration for each covered process the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the five- or six-digit NAICS code that most closely corresponds to the process, and the Program level of the process.	40 CFR 68.160(b)(7), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
463.	Failure to include in the registration the stationary source USEPA identifier.	40 CFR 68.160(b)(8), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
464.	Failure to include in the registration the number of full-time employees at the stationary source.	40 CFR 68.160(b)(9), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
465.	Failure to include in the registration whether the stationary source is subject to 29 CFR 1910.119.	40 CFR 68.160(b)(10), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
466.	Failure to include in the registration whether the stationary source is subject to 40 CFR part 355.	40 CFR 68.160(b)(11), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
467.	Failure to include in the registration the CAA Title V operating permit number for a stationary source that has a CAA Title V operating permit.	40 CFR 68.160(b)(12), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
468.	Failure to include in the registration the date of the last safety inspection of the stationary source by a Federal, state, or local government agency and the identity of the inspecting entity.	40 CFR 68.160(b)(13), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
469.	Failure to submit in the RMP for Program 2 and 3 processes information on one worst-case release scenario to represent all regulated toxic substances held above the threshold quantity and one worst-case release scenario to represent all regulated flammable substances held above the threshold quantity. or Failure to submit information for additional worst-case scenarios for toxics or flammables required by 40 CFR 68.25(a)(2)(iii) incorporated at N.J.A.C. 7:31-2.1(a). or Failure to submit information on one alternative release scenario for each regulated toxic substance held above the threshold quantity and one alternative release scenario to represent all regulated flammable substances held above the threshold quantity.	40 CFR 68.165(a)(2), N.J.A.C. 7:31-7.1(a)	2,000	4,000	10,000
470.	Failure to submit the chemical name in the off-site consequence analysis (OCA).	40 CFR 68.165(b)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
471.	Failure to submit the percentage weight of the chemical in a liquid mixture (toxics only) in the OCA.	40 CFR 68.165(b)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
472.	Failure to submit the physical state (toxics only) in the OCA.	40 CFR 68.165(b)(3), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
473.	Failure to submit the basis for the results of the off-site consequence analysis data in the RMP (including model name if used).	40 CFR 68.165(b)(4), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
474.	Failure to submit the scenario (explosion, fire, toxic gas release, or liquid spill and vaporization) in the OCA.	40 CFR 68.165(b)(5), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
475.	Failure to submit the quantity released in pounds in the OCA.	40 CFR 68.165(b)(6), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
476.	Failure to submit release rate in the OCA.	40 CFR 68.165(b)(7), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
477.	Failure to submit the release duration in the OCA.	40 CFR 68.165(b)(8), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
478.	Failure to submit the wind speed and atmosheric stability class (toxics only) in the OCA.	40 CFR 68.165(b)(9), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
479.	Failure to submit the topography (toxics only) in the OCA.	40 CFR 68.165(b)(10), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
480.	Failure to submit the distance to endpoint in the OCA.	40 CFR 68.165(b)(11), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
481.	Failure to submit the public and environmental receptors within the distance to endpoint in the OCA.	40 CFR 68.165(b)(12), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
482.	Failure to submit the passive mitigation considered in the OCA.	40 CFR 68.165(b)(13), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
483.	Failure to submit the active mitigation considered (alternative releases only) in the OCA.	40 CFR 68.165(b)(14), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
484.	Failure to submit in the RMP the five year accident history information required at 40 CFR 68.42(b) incorporated at N.J.A.C. 7:31-2.1(a) on each accident covered by 40 CFR 68.42(a) incorporated at N.J.A.C. 7:31-2.1(a).	40 CFR 68.168, N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
485.	Failure to indicate in the RMP to which Program 2 processes the prevention program information in 40 CFR 68.170(b) through (k) incorporated at N.J.A.C. 7:31-7.1(a) applies, for prevention program information provided only once which applies to more than one covered process.	40 CFR 68.170(a), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
486.	Failure to provide in the RMP the five- or six-digit NAICS code that most closely corresponds to each Program 2 process.	40 CFR 68.170(b), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
487.	Failure to provide in the RMP the name(s) of the chemical(s) covered for each Program 2 process.	40 CFR 68.170(c), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
488.	Failure to provide in the RMP for each Program 2 process the date of the most recent review or revision of the safety information and a list of Federal or state regulations or industry specific design codes and standards used to demonstrate compliance with the safety information requirement.	40 CFR 68.170(d), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
489.	Failure to provide in the RMP the date of completion of the most recent hazard review or update for each Program 2 process.	40 CFR 68.170(e), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
490.	Failure to provide in the RMP the expected date of completion of any changes resulting from the hazard review for each Program 2 process.	40 CFR 68.170(e)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
491.	Failure to provide in the RMP the major hazards identified for each Program 2 process.	40 CFR 68.170(e)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
492.	Failure to provide in the RMP the process controls in use for each Program 2 process.	40 CFR 68.170(e)(3), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
493.	Failure to provide in the RMP the mitigation systems in use for each Program 2 process.	40 CFR 68.170(e)(4), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
494.	Failure to provide in the RMP the monitoring and detection systems in use for each Program 2 process.	40 CFR 68.170(e)(5), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
495.	Failure to provide in the RMP the changes since the last hazard review for each Program 2 process.	40 CFR 68.170(e)(6), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
496.	Failure to provide in the RMP the date of the most recent review or revision of operating procedures for each Program 2 process.	40 CFR 68.170(f), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
497.	Failure to provide in the RMP the date of the most recent review or revision of training programs for each Program 2 process.	40 CFR 68.170(g), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
498.	Failure to provide in the RMP the type of training provided-(classroom, classroom plus on the job, on the job) for each Program 2 process.	40 CFR 68.170(g)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
499.	Failure to provide in the RMP the type of competency testing used for each Program 2 process.	40 CFR 68.170(g)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
500.	Failure to provide in the RMP the date of the most recent review or revision of maintenance procedures, the date of the most recent equipment inspection or test, or the equipment inspected or tested for each Program 2 process.	40 CFR 68.170(h), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
501.	Failure to provide in the RMP the date of the most recent compliance audit or the expected date of completion of any changes resulting from the compliance audit for each Program 2 process.	40 CFR 68.170(i), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
502.	Failure to provide in the RMP the date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation for each Program 2 process.	40 CFR 68.170(j), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
503.	Failure to provide in the RMP the date of the most recent change that triggered a review or revision of the safety information, the hazard review, operating or maintenance procedures, or training for each Program 2 process.	40 CFR 68.170(k), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
504.	Failure to indicate to which Program 3 processes the prevention program information required by 40 CFR 68.175(b)-(p) incorporated at N.J.A.C. 7:31-7.1(a) applies, for prevention program information provided only once which applies to more than one covered process.	40 CFR 68.175(a), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
505.	Failure to provide in the RMP the five- or six-digit NAICS code that most closely corresponds to each Program 3 process.	40 CFR 68.175(b), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
506.	Failure to provide in the RMP the name(s) of the substance(s) covered for each Program 3 process.	40 CFR 68.175(c), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
507.	Failure to provide in the RMP the date on which the safety information was last reviewed or revised for each Program 3 process.	40 CFR 68.175(d), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
508.	Failure to provide in the RMP the date of completion of the most recent process hazard analysis or update and the technique used for each Program 3 process.	40 CFR 68.175(e), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
509.	Failure to provide in the RMP the expected date of completion of any changes resulting from the PHA for each Program 3 process.	40 CFR 68.175(e)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
510.	Failure to provide in the RMP the major hazards identified for each Program 3 process.	40 CFR 68.175(e)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
511.	Failure to provide in the RMP the process controls in use for each Program 3 process.	40 CFR 68.175(e)(3), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
512.	Failure to provide in the RMP the mitigation systems in use for each Program 3 process.	40 CFR 68.175(e)(4), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
513.	Failure to provide in the RMP the monitoring and detection systems in use for each Program 3 process.	40 CFR 68.175(e)(5), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
514.	Failure to provide in the RMP the changes since the last PHA for each Program 3 process.	40 CFR 68.175(e)(6), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
515.	Failure to provide in the RMP the date of the most recent review or revision of the operating procedures for each Program 3 process.	40 CFR 68.175(f), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
516.	Failure to provide in the RMP the date of the most recent review or revision of training programs for each Program 3 process.	40 CFR 68.175(g), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
517.	Failure to provide in the RMP for each Program 3 process the type of training given (classroom, classroom plus on the job, on the job).	40 CFR 68.175(g)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
518.	Failure to provide in the RMP the type of competency testing used for each Program 3 process.	40 CFR 68.175(g)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
519.	**Failure to provide in the RMP the date of the most recent review or revision of maintenance procedures and the date of the most recent equipment inspection or test and the equipment inspected or tested for each Program 3 process.**	**40 CFR 68.175(h), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
520.	**Failure to provide in the RMP the date of the most recent change that triggered management of change procedures or the date of the most recent review or revision of management of change procedures for each Program 3 process.**	**40 CFR 68.175(i), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
521.	**Failure to provide in the RMP the date of the most recent pre-startup review for each Program 3 process.**	**40 CFR 68.175(j), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
522.	**Failure to provide in the RMP the date of the most recent compliance audit and the expected date of completion of any changes resulting from the compliance audit for each Program 3 process.**	**40 CFR 68.175(k), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
523.	**Failure to provide in the RMP the date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation for each Program 3 process.**	**40 CFR 68.175(l), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
524.	**Failure to provide in the RMP the date of the most recent review or revision of employee participation plans for each Program 3 process.**	**40 CFR 68.175(m), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
525.	**Failure to provide in the RMP the date of the most recent review or revision of hot work permit procedures for each Program 3 process.**	**40 CFR 68.175(n), N.J.A.C. 7:31-7.1(a)**	**500**	**1,000**	**2,500**
526.	**Failure to provide in the RMP the date of the most recent review or revision of contractor safety procedures for each Program 3 process.**	**40 CFR 68.175(o), N.J.A.C. 7:31-7.1(a)]**	**500**	**1,000**	**2,500**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
527.	**Failure to provide in the RMP the date of the most recent evaluation of contractor safety performance for each Program 3 process.**	**40 CFR 68.175(p), N.J.A.C. 7:31-7.1(a)**	**500**	**1,000**	**2,500**
528.	**Failure to provide in the RMP whether there is a written emergency response plan.**	**40 CFR 68.180(a)(1), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
529.	**Failure to provide in the RMP whether the emergency response plan includes specific actions to be taken in response to an accidental release of a regulated substance.**	**40 CFR 68.180(a)(2), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
530.	**Failure to provide in the RMP whether the emergency response plan includes procedures for informing the public and local agencies responsible for responding to accidental releases.**	**40 CFR 68.180(a)(3), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
531.	**Failure to provide in the RMP whether the emergency response plan includes information on emergency health care.**	**40 CFR 68.180(a)(4), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
532.	**Failure to provide in the RMP the date of the most recent review or update of the emergency response plan.**	**40 CFR 68.180(a)(5), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
533.	**Failure to provide in the RMP the date of the most recent emergency response training for employees.**	**40 CFR 68.180(a)(6), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
534.	**Failure to provide in the RMP the name and telephone number of the local agency with which emergency response activities and the emergency response plan is coordinated.**	**40 CFR 68.180(b), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
535.	**Failure to list in the RMP other Federal or state emergency plan requirements to which the stationary source is subject.**	**40 CFR 68.180(c), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
536.	**Failure to submit in the RMP a single certification that, to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, the information submitted is true, accurate, and complete.**	**40 CFR 68.185(b), N.J.A.C. 7:31-7.1(a)**	**2,000**	**4,000**	**10,000**
537.	**Failure to review and update the RMP as specified in 40 CFR 68.190(b) incorporated at N.J.A.C. 7:31-7.1(c) and submit it in a method and format to a central point specified by USEPA.**	**40 CFR 68.190(a), N.J.A.C. 7:31-7.1(c)3-4**	**1,000**	**2,000**	**5,000**
538.	**Failure to submit RMP updates to the Department in accordance with 40 CFR 190(b) incorporated N.J.A.C. 7:31-7.1(c) and N.J.A.C. 7:31-7.2 for all covered processes.**	**40 CFR 68.190(b) N.J.A.C. 7:31-7.1(c)5 N.J.A.C. 7:31-7.2**	**1,000**	**2,000**	**5,000**
539.	**Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 within five years of its initial submission or most recent update required by 40 CFR 68.190(b)(2) through (b)(7) incorporated at N.J.A.C. 7:31-7.1(c), whichever is later.**	**40 CFR 68.190(b)(1), N.J.A.C. 7:31-7.1(c)5**	**1,000**	**2,000**	**5,000**
540.	**Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 prior to three years after a newly regulated substance is first listed by USEPA.**	**40 CFR 68.190(b)(2), N.J.A.C. 7:31-7.1(c)5**	**1,000**	**2,000**	**5,000**
541.	**Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 prior to the date on which a new regulated substance is first present above a threshold quantity in an already covered process.**	**40 CFR 68.190(b)(3), N.J.A.C. 7:31-7.1(c)5**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
542.	**Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 prior to the date on which a regulated substance was first present above a threshold quantity in a new process.**	**40 CFR 68.190(b)(4), N.J.A.C. 7:31-7.1(c)5**	**1,000**	**2,000**	**5,000**
543.	**Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 within six months of a change that requires a revised PHA or hazard review.**	**40 CFR 68.190(b)(5), N.J.A.C. 7:31-7.1(c)5**	**1,000**	**2,000**	**5,000**
544.	**Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 within six months of a change that requires a revised offsite consequence analysis as provided in 40 CFR 68.3 incorporated at N.J.A.C. 7:31-2.1(c).**	**40 CFR 68.190(b)(6), N.J.A.C. 7:31-7.1(c)5**	**1,000**	**2,000**	**5,000**
545.	**Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 within six months of a change that alters the Program level that applied to any covered process.**	**40 CFR 68.190(b)(7), N.J.A.C. 7:31-7.1(c)5**	**1,000**	**2,000**	**5,000**
546.	**Failure to submit a revised registration to USEPA and the Department within six months of being no longer subject to 40 CFR 68 as incorporated at N.J.A.C. 7:31 indicating that the stationary source is no longer covered.**	**40 CFR 68.190(c), N.J.A.C. 7:31-7.1(a)**	**1,000**	**2,000**	**5,000**
547.	**Failure to submit to the Department in a specified format all documents required by 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1-2.**	**N.J.A.C. 7:31-7.2(a)1**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
548.	**Failure to submit to the Department in a specified format, supplemental TCPA program information including identification of the position titles, expertise and affiliation of the persons involved with the development of each element of the risk management program.**	**N.J.A.C. 7:31-7.2(a)2i**	**1,000**	**2,000**	**5,000**
549.	**Failure to submit to the Department in a specified format supplemental TCPA program information including a description and profile of the area in which the covered process is situated and its proximity to population and water supplies.**	**N.J.A.C. 7:31-7.2(a)2ii**	**1,000**	**2,000**	**5,000**
550.	**Failure to submit to the Department in a specified format supplemental TCPA program information identifying insurance carriers underwriting the stationary source's environmental liability and workers compensation insurance policies including the address of the carrier, the type of policy, the amount of insurance and limitations or exclusions to the policy.**	**N.J.A.C. 7:31-7.2(a)2iii**	**1,000**	**2,000**	**5,000**
551.	**Failure to submit to the Department in a specified format supplemental TCPA program information identifying the extraordinarily hazardous substances inventory at the covered process as end products, intermediate products, by-products or waste products.**	**N.J.A.C. 7:31-7.2(a)2iv**	**1,000**	**2,000**	**5,000**
552.	**Failure to submit to the Department in a specified format supplemental TCPA program information identifying each covered process containing an RHS Mixture and the number of process vessels in which the RHS Mixture is present at or above its threshold quantity for RHS Mixtures containing one or more EHSs listed in Parts A, B, or C of N.J.A.C. 7:31-6.3(a) Table I.**	**N.J.A.C. 7:31-7.2(a)2v**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
553.	**Failure to identify and register each regulated individual RHS and RHS Mixture and provide in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a) the total amount of the individual RHS in the covered process for each individual RHS listed at N.J.A.C. 7:31-6.3(a), Table I, Part D, Group I.**	**N.J.A.C. 7:31-7.2(a)3i**	**1,000**	**2,000**	**5,000**
554.	**Failure to identify and register a RHS Mixture in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a) the maximum capacity of the process vessel containing the RHS Mixture, for each regulated RHS Mixture identified pursuant to N.J.A.C. 7:31-6.3.** **or** **Failure to register the total combined capacity of multiple vessels with a capacity at or above the threshold quantity of an RHS Mixture.**	**N.J.A.C. 7:31-7.2(a)3ii**	**1,000**	**2,000**	**5,000**
555.	**Failure to identify and register each regulated individual RHS and RHS Mixture and provide in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a) the heat of reaction range for RHS Mixtures (or heat of combustion, heat of decomposition, or heat of explosion, as applicable) in calories/gram of RHS Mixture as listed at Table II of N.J.A.C. 7:31-6.3(c).** **or** **Failure to identify and register the RHS Mixture having the highest heat of reaction range as shown on Table II in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a) when more than one RHS Mixture is present in the process vessel at different times.**	**N.J.A.C. 7:31-7.2(a)3iii**	**1,000**	**2,000**	**5,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
556.	**Failure to identify and register only the EHS listed on Part A, B, or C as a toxic or flammable substance, as applicable, in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a), for RHS Mixtures containing one or more EHS(s) listed in Parts A, B, or C of Table I in a process above their threshold.**	**N.J.A.C. 7:31-7.2(a)3iv**	**1,000**	**2,000**	**5,000**
557.	**Failure to submit an update to the Department within 30 days of an increase in maximum inventory of a covered process in addition to the updates required by N.J.A.C. 7:31-7.1(c)3-5.**	**N.J.A.C. 7:31-7.2(b)**	**2,000**	**4,000**	**10,000**
558.	**Failure to adopt the existing, or obtain a new, approved Program 2 or Program 3 TCPA risk management program for the covered process before operating EHS equipment following the transfer of the covered process to a new owner or operator or change in ownership or the name of an owner or operator.**	**N.J.A.C. 7:31-7.4(a)**	**2,000**	**4,000**	**10,000**
559.	**Failure to adopt an existing approved Program 2 or Program 3 TCPA risk management program by submitting an updated registration in accordance with Subchapter 7 and signing an addendum to the consent agreement that was previously signed by the Department and the former owner or operator.**	**N.J.A.C. 7:31-7.4(b)**	**2,000**	**4,000**	**10,000**
560.	**Failure to comply with the approved risk management program for EHSs listed in N.J.A.C. 7:31-6.3, Table I, Parts A, B and/or C until the risk management program is revised to reflect the new requirements of N.J.A.C. 7:31.** **or** **Failure to revise the risk management program to reflect the new requirements of this chapter by January 1, 2004.**	**N.J.A.C. 7:31-7.5(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
561.	**Failure to be in compliance with this chapter by September *30,* 2004.**	**N.J.A.C. 7:31-7.5(b)**	**2,000**	**4,000**	**10,000**
562.	**Failure to maintain records supporting the implementation of 40 CFR 68 as incorporated at N.J.A.C. 7:31 for five years unless otherwise provided in N.J.A.C. 7:31-3 and 4.**	**40 CFR 68.200, N.J.A.C. 7:31-8.1(c)1**	**2,000**	**4,000**	**10,000**
563.	**Failure to provide the Department access to the stationary source, supporting documentation, or any area where an accidental release could occur in accordance with N.J.A.C. 7:31-8.2.**	**40 CFR 68.220(d), N.J.A.C. 7:31-8.1(c)2&5**	**2,000**	**4,000**	**10,000**
564.	**Failure to include in the written response to a preliminary determination a statement that the revisions contained in the preliminary determination will be implemented in accordance with the timetable included in the preliminary determination or a statement that the revisions in whole or in part are rejected. or Failure to explain the basis for rejecting in whole or in part a revision contained in a preliminary determination.**	**40 CFR 68.220(f)(1), N.J.A.C. 7:31-8.1(c)7**	**2,000**	**4,000**	**10,000**
565.	**Failure to submit the written response under 40 CFR 68.220(f)(1) as incorporated at N.J.A.C. 7:31-8.1(c)7 to the Department within 60 days of the issue of the preliminary determination.**	**40 CFR 68.220(f)(2), N.J.A.C. 7:31-8.1(c)8**	**4,000**	**8,000**	**20,000**
566.	**Failure to enter into a consent agreement (or consent agreement addendum for previously approved risk management programs) with the Department within 120 days of receipt of a preliminary determination. or Failure to comply with the requirements of the approved risk management program as set forth in the consent agreement or consent agreement addendum.**	**40 CFR 68.220(g), N.J.A.C. 7:31-8.1(c)9**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
567.	**Failure to revise and submit the RMP prepared under 40 CFR 68.150 as incorporated at N.J.A.C. 7:31-7.1(c) as required by a consent agreement, consent agreement addendum or administrative order under 40 CFR 68.220(g) as incorporated at N.J.A.C. 7:31-8.1(c)9 within 30 days after completion of the actions detailed in the implementation schedule set forth in the consent agreement, consent agreement addendum or administrative order.**	**40 CFR 68.220(h), N.J.A.C. 7:31-8.1(c)10**	**2,000**	**4,000**	**10,000**
568.	**Failure to provide the Department the right to enter and inspect and/or audit any stationary source, building or equipment, or any portion thereof, at any time, in order to determine compliance with the TCPA, N.J.A.C. 7:31, any order, consent order or agreement.** **or** **Failure to provide the Department the right to test or sample any materials at the stationary source, to sketch or photograph any portion of the stationary source, building or equipment, to copy or photograph any document or records necessary to determine such compliance or non-compliance, and to interview any employees or representatives of the owner or operator.** **or** **Failure to assist the Department by hindering or delaying during the performance of any aspects of an inspection and audit.**	**N.J.A.C. 7:31-8.2(a)**	**2,000**	**4,000**	**10,000**
569.	**Failure to submit to the Department a risk management program document for review.**	**N.J.A.C. 7:31-8.2(c)**	**1,000**	**2,000**	**5,000**
570.	**Failure to assist the Department in developing a work plan to perform an Environmental Hazardous Substance Accident Risk Assessment (EHSARA) and develop a risk reduction plan.**	**N.J.A.C. 7:31-9.1(a)**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
571.	**Failure to compile and submit to the Department the list of risk management program documents within 30 days after receipt of notice of the determination that the owner or operator does not have an established risk management program. or Failure to group the list of documents by operating or utility unit area in EHS service at the stationary source giving their document number, name, the EHS involved, most recent revision number and date, file location at the stationary source, and code of sheet size according to ANSI Y14.1-1996 (A, B, C, D, or E) or Deutshes Institute Fuer Normung (DIN) 823-1965 (A4, A3, A2, A1, or A0).**	**N.J.A.C. 7:31-9.1(c)**	**2,000**	**4,000**	**10,000**
572.	**Failure to attend a meeting with the Department for the purpose of discussing any workplan items listed at N.J.A.C. 7:31-9.1(d)1-7.**	**N.J.A.C. 7:31-9.1(d)1-7**	**2,000**	**4,000**	**10,000**
573.	**Failure to submit within 60 days of receipt of the finished workplan the names and proposals of three consultants who meet the requirements at N.J.A.C. 7:31-9.4(b) and are willing and able to perform the EHSARA in accordance with the schedule set in the work plan.**	**N.J.A.C. 7:31-9.3(b)**	**2,000**	**4,000**	**10,000**
574.	**Failure to obtain approval in writing from the Department to subcontract work involved in the EHSARA.**	**N.J.A.C. 7:31-9.3(c)4**	**750**	**1,500**	**3,750**
575.	**Failure to submit the names and proposals of an additional three consultants to the Department for its selection of one of the consultants to perform the EHSARA within 60 days after the Department's determination that none of the original proposals meet the requirements in N.J.A.C. 7:31-9.4.**	**N.J.A.C. 7:31-9.4(d)2**	**2,000**	**4,000**	**10,000**

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
576.	Failure to execute a contract with the consultant chosen by the Department within 45 days after receipt of the name of the consultant from the Department.	N.J.A.C. 7:31-9.4(e)	2,000	4,000	10,000
577.	Failure to require the consultant to perform the EHSARA and develop a recommended risk reduction plan which includes the identification of those activities necessary to create a risk management program in conformity with the work plan developed and explained at the meeting held pursuant to N.J.A.C. 7:31-9.1(d).	N.J.A.C. 7:31-9.4(f)	2,000	4,000	10,000
578.	Failure to require the consultant to prepare an EHSARA report upon completion of the EHSARA which includes recommendations to reduce risks.	N.J.A.C. 7:31-9.5(a)	2,000	4,000	10,000
579.	Failure to submit the original EHSARA report to the Department in accordance with the schedule set forth in the work plan.	N.J.A.C. 7:31-9.5(b)	2,000	4,000	10,000
580.	Failure to include in the EHSARA report the findings of the verification required by N.J.A.C. 7:31-9.2(a)2.	N.J.A.C. 7:31-9.5(c)1	1,000	2,000	2,500
581.	Failure to include in the EHSARA report the findings of the review required by N.J.A.C. 7:31-9.2(a)3.	N.J.A.C. 7:31-9.5(c)2	1,000	2,000	2,500
582.	Failure to include in the EHSARA report the findings of the safety review required by N.J.A.C. 7:31-9.2(a)4.	N.J.A.C. 7:31-9.5(c)3	1,000	2,000	2,500
583.	Failure to include in the EHSARA report the reports of the process hazard analysis with risk assessment required by N.J.A.C. 7:31-9.2(a)5.	N.J.A.C. 7:31-9.5(c)4	1,000	2,000	2,500

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
584.	Failure to include in the EHSARA report the findings of the reviews required by N.J.A.C. 7:31-9.2(a)6 through 10.	N.J.A.C. 7:31-9.5(c)5	1,000	2,000	2,500
585.	Failure to include in the EHSARA report the recommended risk reduction plan including the listing of all of the deficiencies identified in N.J.A.C. 7:31-9.5(c)1 through 5, the remedial actions and alternatives to correct the deficiencies or a proposed schedule for implementation.	N.J.A.C. 7:31-9.5(c)6	1,000	2,000	2,500
586.	Failure to include in the EHSARA report the findings of the verification required by N.J.A.C. 7:31-9.2(b)2.	N.J.A.C. 7:31-9.5(d)1	1,000	2,000	2,500
587.	Failure to include in the EHSARA report the findings of the review required by N.J.A.C. 7:31-9.2(b)3.	N.J.A.C. 7:31-9.5(d)2	1,000	2,000	2,500
588.	Failure to include in the EHSARA report the report of the hazard review required by N.J.A.C. 7:31-9.2(b)4.	N.J.A.C. 7:31-9.5(d)3	1,000	2,000	2,500
589.	Failure to include in the EHSARA report the findings of the reviews required by N.J.A.C. 7:31-9.2(b)5 through 9.	N.J.A.C. 7:31-9.5(d)4	1,000	2,000	2,500
590.	Failure to include in the EHSARA report the recommended risk reduction plan including the listing of all of the deficiencies identified in N.J.A.C. 7:31-9.5(d)1 through 4, the remedial actions and alternatives to correct the deficiencies or a proposed schedule for implementation.	N.J.A.C. 7:31-9.5(d)5	1,000	2,000	2,500
591.	Failure to implement the risk reduction plan which includes a list of risks that must be reduced.	N.J.A.C. 7:31-9.5(e)1	4,000	8,000	20,000

	Categories of Offense	Cite	First Offense	Second Offense	Third and each Subsequent Offenses
592.	**Failure to implement the risk reduction plan which includes the scheduled actions that were required to be taken to reduce the risks including those necessary to complete a risk management program meeting the requirements of N.J.A.C. 7:31-3 for Program 2 covered processes or N.J.A.C. 7:31-4 for Program 3 covered processes.**	**N.J.A.C. 7:31-9.5(e)2**	**4,000**	**8,000**	**20,000**

(d)-(g)*(*No change.*)*

Based on consultation with staff, I hereby certify that the above statements, including the Federal Standards Analysis (p.*53*) addressing the requirements of Executive Order 27(1994) and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., permit the public to understand accurately and plainly the purposes and expected consequences of this proposal. I hereby authorize the proposal.

_____ _____

Date Bradley M. Campbell, Commissioner
Department of Environmental Protection

Ssdocs/tcparul